

### Extra Ordinary Part - V /1995

Extra No.	Date	Department
Extra No.1	22-03-1995	Other
Extra No.2	23-03-1995	Other
Extra No.3	28-03-1995	Other
Extra No.4	29-03-1995	Other
Extra No.5	02-06-1995	Other
Extra No.6	12-06-1995	Other
Extra No.7	22-06-1995	Other
Extra No.8	22-06-1995	Other
Extra No.9	22-06-1995	Other
Extra No.10	22-06-1995	Other
Extra No.11	22-06-1995	Other
Extra No.12	22-06-1995	Other
Extra No.13	22-06-1995	Other
Extra No.14	22-06-1995	Other
Extra No.15	22-06-1995	Other
Extra No.16	22-06-1995	Other
Extra No.17	29-06-1995	Other
Extra No.18	29-06-1995	Other
Extra No.19	13-07-1995	Other
Extra No.20	19-07-1995	Other
Extra No.21	20-07-1995	Other
Extra No.22	20-07-1995	Other
Extra No.23	20-07-1995	Other
Extra No.24	20-07-1995	Other
Extra No.25	20-07-1995	Other
Extra No.26	24-07-1995	Other
Extra No.27	24-07-1995	Other



**The Gujarat Government Gazette**  
**EXTRAORDINARY**  
 PUBLISHED BY AUTHORITY

Vol. XXXVI]

WEDNESDAY, MARCH 22, 1995/CAITRA 1, 1917

Separate paging is given to this Part in order that it  
 may be filed as a separate compilation.

**PART V**

**Bill introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

**THE GUJARAT TOWN PLANNING AND URBAN DEVELOPMENT  
 (AMENDMENT AND VALIDATION) BILL, 1995.**

GUJARAT BILL NO. 1 OF 1995.

**A BILL**

*further to amend the Gujarat Town Planning and Urban Development Act, 1976.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows:—

(1) This Act may be called the Gujarat Town Planning and Urban Development (Amendment and Validation) Act, 1995.

(2) It shall be deemed to have come into force on the 11th January, 1995.

2. In the Gujarat Town Planning and Urban Development Act, 1976 (hereinafter referred to as "the principal Act"), in section 7,—

(1) in sub-section (1),—

(a) for the words "The functions of", the words "The powers and functions of" shall be substituted;

(b) after clause (iv), the following clause shall be and shall be deemed always to have been inserted, namely:—

"(iv-a) to levy and collect such scrutiny fees for scrutiny of documents submitted to the appropriate authority for permission for development as may be prescribed by regulations;" ;

Short title  
and  
commence-  
ment.

Amend-  
ment of  
section 7  
of  
President's  
Act No. 27  
of  
1976.

President's  
Act No. 27  
of 1976.

(c) after clause (vii), the following clause shall be inserted, namely:—

“(vii-a) to levy and collect such fees for the execution of works referred to in clause (vii) and for provision of other services and amenities as may be prescribed by regulations;”;

(2) in sub-section (2), for the words “any of its functions”, the words “any of its powers and functions” shall be substituted.

Amend-  
ment of  
section 9  
of Presi-  
dent's Act  
No. 27 of  
1976.

3. In the principal Act, in section 9, in sub-section (1), after the words and figure “under section 5”, the words, brackets and figures “or designation of a local authority as the area development authority under sub-section (1) of section 6,” shall be inserted.

Amend-  
ment of  
section 23  
of Presi-  
dent's Act  
No. 27  
of 1976.

4. In the principal Act, in section 23,—

(1) in sub-section (1),—

(a) for the words “The functions of”, the words “The powers and functions of” shall be substituted;

(b) after clause (v), the following clause shall be and shall be deemed always to have been inserted, namely:—

“(v-a) to levy and collect such scrutiny fees for scrutiny of documents submitted to the appropriate authority for permission for development as may be prescribed by regulations;”;

(c) after clause (vi), the following clause shall be inserted, namely:—

“(vi-a) to levy and collect such fees for the execution of works referred to in clause (vi) and for provision of other services and amenities as may be prescribed by regulations;”;

(2) in sub-section (2), for the words “any of its functions”, the words “any of its powers and functions” shall be substituted.

Amend-  
ment of  
section 26  
of Pre-  
sident's  
Act No. 27  
of 1976.

5. In the principal Act, in section 26, after the word “charge” occurring at two places, the words “and scrutiny fees” shall be inserted.

Amend-  
ment of  
section 27  
of Presi-  
dent's Act  
No. 27 of  
1976.

6. In the principal Act, in section 27, the following shall be and shall be deemed always to have been added at the end, namely:—

“and by such scrutiny fees as may be prescribed by regulations”.

7. In the principal Act, in section 28, in sub-section (1), after the words "as may be prescribed", the words "and by such scrutiny fees as may be prescribed by regulations" shall be and shall be deemed always to have been inserted.

Amendment of section 28 of President's Act No. 27 of 1976.

8. In the principal Act, in section 29, in sub-section (1), after the words "development charge", the words "and scrutiny fees" shall be inserted.

Amendment of section 29 of President's Act No. 27 of 1976.

9. In the principal Act, in section 34, in sub-section (1), after the words "together with the prescribed particulars", the words "and with such scrutiny fees as may be prescribed by regulations" shall be and shall be deemed always to have been inserted.

Amendment of section 34 of President's Act No. 27 of 1976.

10. In the principal Act, in section 49, in sub-section (1), in clause (a), the following shall be and shall be deemed always to have been added at the end, namely:—

Amendment of section 49 of President's Act No. 27 of 1976.

"and on payment of such scrutiny fees as may be prescribed by regulations".

11. In the principal Act, in section 91, in sub-section (1), in clause (a), for the words "advances or otherwise", the words "advances, fees, development charges or otherwise" shall be substituted.

Amendment of section 91 of President's Act No. 27 of 1976.

12. In the principal Act, in section 119, in sub-section (2),—

Amendment of section 119 of President's Act No. 27 of 1976.

(1) after clause (c), the following clause shall be and shall be deemed always to have been inserted, namely:—

"(ci) regulations prescribing fees to be levied and collected under clause (iv-a) of sub-section (1) of section 7;";

(2) after clause (ci) as so inserted, the following clause shall be inserted, namely:—

"(cii) regulations prescribing fees to be levied and collected under clause (vii-a) of sub-section (1) of section 7;";

(3) after clause (cii) as so inserted, the following clause shall be and shall be deemed always to have been inserted, namely:—

"(ciii) regulations prescribing fees to be levied and collected under clause (v-a) of sub-section (1) of section 23;";

(4) after clause (ciii) as so inserted, the following clause shall be inserted, namely:—

"(c-iv) regulations prescribing fees to be levied and collected under clause (vi-a) of sub-section (1) of section 23;";



(5) after clause (c-iv) as so inserted, the following clause shall be and shall be deemed always to have been inserted, namely:—

“(c-v) regulations prescribing scrutiny fees under section 27 or, as the case may be, sub-section (I) of section 28;”;

(6) after clause (e), the following clause shall be and shall be deemed always to have been inserted, namely:—

“(e-i) regulations prescribing scrutiny fees under sub-section (I) of section 34 or, as the case may be, clause (a) of sub-section (I) of section 49;”.

Validation of levy and collection of scrutiny fees under principal Act.

13. (I) Notwithstanding anything contained in any judgment, decree or order of any court or any other authority—

(a) any regulation made or purported to have been made before the commencement of this Act by any appropriate authority under the principal Act for levy of scrutiny fees for scrutiny of document submitted to the appropriate authority for permission for development shall be and shall be deemed always to have been validly made under the principal Act as amended by this Act as if the principal Act as amended by this Act had been in force at all material times when such regulation was made; and

(b) any scrutiny fees for scrutiny of documents submitted to the appropriate authority for permission for development, levied or levied and collected or purported to have been levied or levied and collected under any such regulation before the commencement of this Act shall be and shall be deemed always to have been validly levied or levied and collected;

and accordingly—

(i) any such regulation made or purported to have been made or scrutiny fees levied or levied and collected or purported to have been levied or levied and collected under any such regulation shall not be called in question in any court or before any authority whatsoever merely on the ground that the making of such regulation or levy and collection of such scrutiny fees, by the appropriate authority, was not authorised under the principal Act;

(ii) no suit or other proceedings shall be maintained or continued in any court or before any authority whatsoever against the State Government or an appropriate authority or any officer or other authority whatsoever for the refund of such scrutiny fees paid under the principal Act ;

(iii) no court shall enforce any decree or order directing refund of such scrutiny fees paid under the principal Act ; and

(iv) any such scrutiny fees levied before the commencement of this Act but not collected before such commencement, may be collected in accordance with provisions of the principal Act as amended by this Act and regulation made thereunder.

(2) For the removal of doubt, it is hereby declared that nothing in sub-section (I) shall be construed as preventing any person—

(a) from questioning in accordance with the principal Act as amended by this Act and rules and regulations made thereunder any levy or collection of scrutiny fees; or

(b) from claiming any refund of scrutiny fees paid by him in excess of the amount due from him under the principal Act as amended by this Act and the rules and regulations made thereunder.

Repeal and savings.

14. (I) The Gujarat Town Planning and Urban Development (Amendment and Validation) Ordinance, 1995 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Guj. Ord.  
17 of 1995.

## STATEMENT OF OBJECTS AND REASONS

The levy and collection of scrutiny fees (formerly known as development fees) by the Ahmedabad Urban Development Authority was declared as illegal in the judgement of the Supreme Court in Civil Appeal No. 10111 of 1983 (Ahmedabad Urban Development Authority vs. Sharadkumar) reported in AIR 1992 SC 2038 on the ground that the regulations under which they were levied were *ultra vires* the provisions of the Gujarat Town Planning and Urban Development Act, 1976. It was considered necessary to amend the said Act to confer powers on an area development authority or urban development authority to make regulations for levy and collection of scrutiny fees and to levy and collect the same according to the regulations so made and to validate the aforesaid levy and collection of scrutiny fees by an area development authority or an urban development authority under the regulations made by them. Accordingly, relevant provisions of the Act have been amended. Opportunity is also taken—

(i) to confers power on the area development authority or urban development authority to levy and collect fees for execution of certain works and provisions of services and amenities and to make regulations therefore;

(ii) to make provisions of section 9 applicable to a case where the local authority is designated as the area development authority; and

(iii) to amend section 26 with a view to prohibiting carrying out any development of a building or land without obtaining certificate from the appropriate authority to the effect that scrutiny fees have been paid.

For this purpose, a Bill called the Gujarat Town Planning and Urban Development (Amendment and Validation) Bill, 1994. (Gujarat Bill No. 28 of 1994) was published with a view to introduce in the last session of the Gujarat Legislative Assembly but could not be taken up for consideration by the House for want of time. As the Gujarat Legislative Assembly was not in session, the Gujarat Town Planning and Urban Development (Amendment and Validation) Ordinance, 1995 was promulgated to amend the said Act to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

KESHUBHAI PATEL

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respect:—

Clauses 2, 4, 6, 7, 9, 10 and 12.—Clauses (ci) to (c-v) and (e-i) proposed to be inserted in sub-section (2) of section 119 by clause 12 empower the appropriate authority to prescribe by regulations,—

(i) the fees to be levied and collected under clauses (iv-a) and (vii-a) of sub-section (1) of section 7 proposed to be inserted by clause 2;

(ii) fees to be levied and collected under clauses (v-a) and (vi-a) of sub-section (1) of section 23 proposed to be inserted by clause 4; and

(iii) fees to be levied and collected under sections 27, 28(1), 34(1) and 49(1) proposed to be amended by clauses 6, 7, 9 and 10 respectively.

The delegation of legislative powers as proposed is necessary and is of a normal character.

Dated the 22nd March, 1995.

KESHUBHAI PATEL

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 22nd March, 1995.

V-Ex.-1-2

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THURSDAY, MARCH 23, 1995/CAITRA 2, 1917

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 may be filed as a separate compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated in to Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

**THE BOMBAY TENANCY AND AGRICULTURAL LANDS  
 (GUJARAT AMENDMENT) BILL, 1995.**

**GUJARAT BILL NO. 2 OF 1995.**

*A BILL*

*further to amend the Bombay Tenancy and Agricultural Lands Act, 1948.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1995. Short title.

Bom.  
 LXVII of  
 1948.

2. In the Bombay Tenancy and Agricultural Lands Act, 1948, in section 2, in sub-section (6),—

(1) for the portion beginning with the words "being land, the entire area" and ending with the words "one compact block" shall be deleted;

(2) the Explanation III shall be deleted.

Amend-  
 ment of  
 section 2  
 of Bom.  
 LXVII  
 of 1948.

## STATEMENT OF OBJECTS AND REASONS

In the State of Gujarat, at present three different laws regarding tenancies of agriculture lands are in force. In the Gujarat area of former the State of Bombay, the Bombay Tenancy and Agricultural Lands Act, 1948 is applicable. While in the area of erstwhile State of Saurashtra, the Saurashtra Gharkhed Tenancy Settlement and Agricultural Ordinance, 1949 and in the Kutch area of the former State of Bombay, the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 are in operation. Out of these enactments only the Bombay Act of 1948 prohibits a person to hold the agricultural land at different places in the Gujarat area of the former State of Bombay. The existing section 2(6) of the said Bombay Act of 1948 imposes the following two types of restrictions :

(i) the first is in regard to the land. The entire area of the land should be situated in a single village or so situated that no piece of land is separated from another by a distance of more than five miles i. e. eight kilometres or the entire area of land forms one compact block; and

(ii) the second relates to residential requirement for personal supervision. The personal supervision has to be carried out by a person residing in the village in which the land is situated or at a place in another village situated at a distance not exceeding fifteen kilometres from land.

These restrictions were imposed at the relevant time with a view to preventing formation of a class of absentee landlordism. But due to the faster growth of means of communication, development of transportation, free flow of technology and investment in the field of agriculture, the concepts of holding agricultural land at one place and residential requirement for personal supervision have lost their meaning. Accordingly, the continuation of these restrictions is not only anachronistic and causing irritation to the farmers but is also a hinderance to the development of the occupation of agriculture. It is, therefore, expedient to remove these two restrictions and to ensure uniformity of laws in the three aforesaid areas of the State and to create a situation for the optimum development of agriculture which is still mainstay of about 75 per cent of the population of the State. This Bill seeks to amend section 2(6) of the Bombay Act of 1948 to achieve the aforesaid objects.

Dated the 23rd March, 1995.

ASHOK BHATT.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 23rd March, 1995.



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THURSDAY, MARCH 28, 1995/CAITRA 7, 1917

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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated in to Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

**THE GUJARAT (SUPPLEMENTARY) APPROPRIATION BILL, 1995.**

**GUJARAT BILL NO. 3 OF 1995.**

**A BILL**

*to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 1995.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 1995.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of one thousand three hundred thirteen crores, seventy-four lakhs, sixty-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 1995, in respect of the services and purposes specified in column 2 of the Schedule.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Short title.

Issue of  
Rs.13,13,  
74,63,000  
from and  
out of the  
Consoli-  
dated  
Fund of the  
State of  
Gujarat  
for the  
financial  
1994-95.

Appro-  
priation.



## THE SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
		Rs.	Rs.	Rs.
2	Agriculture	Revenue 8,000	1,07,29,000	1,07,37,000
3	Minor Irrigation Soil Conservation and Area Development	Revenue 3,64,70,000	..	3, 4,70,000
4	Animal Husbandry and Dairy Development	Revenue 6,51,74,000	3,00,000	6,54,74,000
		Capital 10,63,87,000	..	10,63,87,000
5	Fisheries	Revenue 32,78,000	85,000	33,63,000
		Capital 50,52,000	..	50,52,000
6	Co-operation	Revenue 23,53,000	..	23,53,000
		Capital 13,85,55,000	..	13,85,55,000
7	Other Expenditure pertaining to Agriculture, Co-operation and Rural Development Department	Capital 53,52,000	..	53,52,000
8	Education Department	Revenue 6,20,000	..	6,20,000
9	Education	Revenue 79,57,61,000	15,35,64,000	94,93,25,000
10	Other Expenditure pertaining to Education Department	Revenue 32,27,000	..	32,27,000
		Capital 4,61,29,000	..	4,61,29,000
11	Energy and Petro-chemicals Department	Revenue 5,60,000	..	5,60,000
13	Energy Projects	Revenue 5,02,88,00,000	..	5,02,88,00,000
		Capital 37,78,00,000	..	37,78,00,000
14	Other Expenditure pertaining to Energy and Petro-chemicals Department	Capital 2,73,000	..	2,73,000
15	Finance Department	Revenue 12,25,000	..	12,25,000
16	Tax Collection charges (Finance Department)	Revenue 1,000	..	1,000
17	Treasury and Accounts Administration	Revenue 55,54,000	1,000	55,55,000
18	Pensions and other retirement benefits	Revenue 81,08,50,000	..	81,08,50,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
19	Other Expenditure pertaining to Finance Department	Revenue 1,000	..	1,000
		Capital 1,37,76,91,000	..	1,37,76,91,000
20	Repayment of Debt pertaining to Finance Department and its Servicing.	Revenue ..	7,42,91,000	7,42,91,000
		Capital ..	3,000	3,000
21	Food and Civil Supplies Department	Revenue 22,50,000	..	22,50,000
22	Civil Supplies	Revenue 28,89,000	..	28,89,000
		Capital 2,31,000	..	2,31,000
23	Food	Revenue 1,09,37,000	..	1,09,37,000
		Capital 10,62,000	..	10,62,000
24	Other Expenditure pertaining to Food and Civil Supplies Department	Capital 10,55,000	..	10,55,000
26	Forests	Revenue 2,62,62,000	3,86,000	2,66,48,000
		Capital 24,00,000	..	24,00,000
27	Environment	Revenue 1,000	..	1,000
28	Other Expenditure pertaining to Forest and Environment Department	Revenue ..	63,000	63,000
		Capital 17,65,000	..	17,65,000
29	Governor	Revenue ..	12,91,000	12,91,000
30	Council of Ministers	Revenue 1,13,75,000	..	1,13,75,000
31	Elections	Revenue 31,37,49,000	..	31,37,49,000
32	Public Service Commission	Revenue ..	8,90,000	8,90,000
33	General Administration Department	Revenue 33,61,000	..	33,61,000
34	Economic Advice and Statistics	Revenue 43,12,000	..	43,12,000
35	Other Expenditure pertaining to General Administration Department	Revenue 20,00,01,000	..	20,00,01,000
		Capital 30,60,000	..	30,60,000



No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
		Rs.	Rs.	Rs.
37	Loans and Advances to Government servants in Gujarat Legislature Secretariat	Capital 4,72,000	..	4,72,000
38	Health and Family Welfare Department	Revenue 13,18,000	..	13,18,000
39	Medical and Public Health	Revenue 20,99,86,000	1,63,000	21,01,49,000
40	Family Welfare	Revenue 2,69,24,000	..	2,69,24,000
41	Water Supply	Revenue 1,06,00,000	82,000	1,06,82,000
		Capital 11,18,35,000	..	11,18,35,000
42	Other Expenditure pertaining to Health and Family Welfare Department	Revenue 5,17,09,000	1,38,000	5,18,47,000
		Capital 1,02,65,000	..	1,02,65,000
43	Home Department	Revenue 40,80,000	..	40,80,000
44	Police	Revenue 50,55,08,000	2,98,000	50,58,06,000
45	Jails	Revenue 2,75,95,000	35,000	2,76,30,000
46	Transport	Revenue 2,000	..	2,000
47	Other Expenditure pertaining to Home Department	Revenue 2,000	2,97,000	2,99,000
		Capital 4,98,18,000	..	4,98,18,000
48	Industries and Mines Department	Revenue 6,00,000	..	6,00,000
49	Stationery and Printing	Revenue 43,78,000	..	43,78,000
50	Industries	Revenue 11,31,47,000	2,000	11,31,49,000
		Capital 12,77,52,000	..	12,77,52,000
52	Other Expenditure pertaining to Industries and Mines Department	Revenue 33,60,000	8,000	33,68,000
		Capital 13,24,000	..	13,24,000
53	Information, Broadcasting and Tourism Department	Revenue 4,75,000	..	4,75,000
55	Tourism	Revenue 1,000	..	1,000
56	Other Expenditure pertaining to Information, Broadcasting and Tourism Department	Capital 7,65,000	..	7,65,000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2		3		
			Rs.	Rs.	Rs.
59	Other Expenditure pertaining to Labour and Employment Department	Capital	17,36,000	..	17,36,000
61	Administration of Justice	Revenue	..	23,35,000	23,35,000
62	Other Expenditure pertaining to Legal Department.	Capital	7,81,000	..	7,81,000
63	Legislative and Parliamentary Affairs Department	Revenue	55,000	..	55,000
65	Narmada and Water Resources Department	Revenue	2,30,000	..	2,30,000
67	Irrigation and Soil Conservation	Revenue	11,74,50,000	41,99,000	12,16,49,000
		Capital	..	1,17,03,000	1,17,03,000
68	Other Expenditure pertaining to Narmada and Water Resources Department	Revenue	25,000	1,55,50,000	1,55,75,000
		Capital	51,12,000	..	51,12,000
69	Panchayats and Rural Housing Department.	Revenue	16,67,000	..	16,67,000
70	Community Development	Revenue	1,58,65,000	3,000	1,58,68,000
71	Rural Housing	Revenue	1,60,60,000	5,57,81,000	7,18,41,000
72	Compensations and Assignments	Revenue	3,52,72,000	..	3,52,72,000
73	Other Expenditure pertaining to Panchayats and Rural Housing Department	Revenue	1,77,90,000	..	1,77,90,000
		Capital	91,77,000	..	91,77,000
74	Revenue Department	Revenue	60,55,000	..	60,55,000
75	Tax collection charges (Revenue Department)	Revenue	..	2,000	2,000
76	District Administration	Revenue	4,96,15,000	..	4,96,15,000
77	Relief on account of Natural Calamities	Revenue	38,93,00,000	..	38,93,00,000
		Capital	10,00,00,000	..	10,00,00,000
78	Dangs District	Revenue	54,96,000	..	54,96,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund.	Total
1	2	3		
		Rs.	Rs.	Rs.
79	Compensation and Assignments	Revenue 5,22,70,000	2,000	5,22,72,000
80	Other Expenditure pertaining to Revenue Department	Capital 44,26,000	..	44,26,000
82	Non-residential Buildings	Revenue 3,21,38,000	..	3,21,38,000
		Capital 69,93,000	1,71,000	71,64,000
83	Residential Buildings	Revenue ..	51,000	51,000
		Capital ..	54,000	54,000
84	Roads and Bridges	Revenue 27,80,000	65,26,000	93,06,000
		Capital 45,60,70,000	20,11,000	45,80,81,000
86	Gujarat Capital Construction Scheme	Capital ..	12,65,000	12,65,000
87	Other Expenditure pertaining to Roads and Buildings Department	Revenue 32,40,000	2,19,98,000	2,52,38,000
		Capital 1,25,77,000	..	1,25,77,000
88	Social Welfare and Tribal Development Department	Revenue 10,91,000	..	10,91,000
89	State Excise.	Revenue 20,75,000	..	20,75,000
90	Social Security and Welfare	Revenue 15,12,59,000	44,14,000	15,56,73,000
91	Welfare of Scheduled Tribes	Revenue 9,55,000	..	9,55,000
92	Other Expenditure pertaining to Social Welfare and Tribal Development Department	Capital 21,13,000	..	21,13,000
93	Special Component Plan for Scheduled Castes	Capital 1,53,08,000	..	1,53,08,000
94	Tribal Area Sub-Plan	Revenue 3,000	56,86,000	56,89,000
		Capital 2,23,41,000	51,68,000	2,75,09,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund.	Total	
1	2	3			
		Rs.	Rs.	Rs.	
95	Urban Development and Urban Housing Department	Revenue	3,00,000	..	3,00,000
96	Urban Housing	Revenue	..	4,80,19,000	4,80,19,000
		Capital	1,58,59,000	..	1,58,59,000
97	Urban Development	Revenue	48,97,000	..	48,97,000
		Capital	47,66,40,000	..	47,66,40,000
98	Compensation Assignment and Tax collection charges	Revenue	1,34,00,000	..	1,34,00,000
99	Other Expenditure pertaining to Urban Development and Urban Housing Department.	Capital	9,43,000	..	9,43,000
101	Youth Services and Cultural Activities	Revenue	23,75,000	..	23,75,000
102	Other Expenditure pertaining to Youth Services and Cultural Activities Department	Capital	4,13,000	..	4,13,000
Total :		Revenue	9,21,03,67,000	40,71,89,000	9,61,75,56,000
		Capital	3,49,95,32,000	2,03,75,000	3,51,99,07,000
Grand		Total	12,70,98,99,000	42,75,64,000	13,13,74,63,000

## STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty-first day of March, 1995.

The amounts are shown below:—

(a) Revenue Expenditure	Rs.	9,61,75,56,000
(b) Capital Expenditure	Rs.	3,51,99,07,000
Total	Rs.	<u>13,13,74,63,000</u>

Dated the 28th March, 1995.

SURESH MEHTA

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 28th March, 1995.



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Separate paging is given to this Part in order that it  
 may be filed as a separate compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE GUJARAT APPROPRIATION (VOTE ON ACCOUNT) BILL, 1995.**

**GUJARAT BILL NO. 4 OF 1995.**

**A BILL**

*to authorise withdrawal of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of a part of the financial year ending on the thirty-first day of March, 1996.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Appropriation (Vote on Account) Act, 1995.

2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of three thousand three hundred twenty-seven crores, eighty-six lakhs, three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1995-96.

3. The sums authorised to be withdrawn from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Short title.

Withdrawal of Rs. 33,27,86,03,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 1995-96.

Appropriation.

## THE SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropriation.	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
1	Agriculture, Co-operation and Rural Development Department	Revenue	84,16,000	..	84,16,000
2	Agriculture]	Revenue	97,31,48,000	..	97,31,48,000
		Capital	1,68,34,000	..	1,68,34,000
	Minor Irrigation, Soil Conservation and Area Development	Revenue	8,46,81,000	..	8,46,81,000
		Capital	30,83,000	..	30,83,000
4	Animal Husbandry and Dairy Development	Revenue	11,13,71,000	..	11,13,71,000
		Capital	1,33,000	..	1,33,000
5	Co-operation	Revenue	6,43,75,000	..	6,43,75,000
		Capital	4,95,77,000	..	4,95,77,000
6	Other Expenditure pertaining to Agriculture, Co-operation and Rural Development Department	Capital	2,33,40,000	..	2,33,40,000
7	Education Department	Revenue	48,38,000	..	48,38,000
8	Education	Revenue	5,81,66,50,000	15,90,33,000	5,97,56,83,000
		Capital	1,65,000	..	1,65,000
9	Other Expenditure pertaining to Education Department	Revenue	1,63,54,000	..	1,63,54,000
		Capital	28,68,17,000	..	28,68,17,000
10	Energy and Petro-chemicals Department	Revenue	19,67,000	..	19,67,000
11	Tax collection charges (Energy and Petro-chemicals Department)	Revenue	1,02,00,000	..	1,02,00,000
12	Energy Projects	Revenue	1,65,00,000	..	1,65,00,000
	Other Expenditure pertaining to Energy and Petro-chemicals Department	Capital	18,40,000	..	18,40,000
		Revenue	98,83,000	..	98,83,000
		Capital	1,35,000	..	1,35,000



No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
15	Tax collection charges <sup>1</sup> (Finance Department)	Revenue	Rs. 10,64,87,000	Rs. .. 10,64,87,000
16	Treasury and Accounts Administration	Revenue	6,89,73,000	.. 6,89,73,000
17	Pension and other retirement benefits	Revenue	1,15,09,17,000	3,33,000 1,15,12,50,000
18	Other Expenditure pertaining to Finance Department	Revenue	1,36,01,77,000	.. 1,36,01,77,000
		Capital	2,19,32,000	34,000 2,19,66,000
19	Repayment of debt pertaining to Finance Department and its Servicing]	Revenue	..	4,01,08,03,000 4,01,08,03,000
		Capital	..	2,18,76,24,000 2,18,76,24,000
20	Food and Civil Supplies Department	Revenue	1,10,14,000	.. 1,10,14,000
21	Civil Supplies	Revenue	7,73,96,000	.. 7,73,96,000
		Capital	34,000	.. 34,000
22	Food	Revenue	2,27,27,000	.. 2,27,27,000
		[Capital	7,90,000	.. 7,90,000
23	Other Expenditure pertaining to Food and Civil Supplies Department	Capital	38,10,000	.. 38,10,000
24	Forests and Environment Department	Revenue	22,06,000	.. 22,06,000
25	Forests	Revenue]	18,01,06,000	.. 18,01,06,000
		Capital	13,80,07,000	.. 13,80,07,000
26	Environment	Revenue	36,00,000	.. 36,00,000
27	Other Expenditure pertaining to Forests and Environment Department	Capital	77,80,000	.. 77,80,000
28	Governor	Revenue	..	29,31,000 29,31,000
29	Council of Ministers	Revenue]	94,92,000	.. 94,92,000
30	Elections	Revenue]	1,63,10,000	.. 1,63,10,000
31	Public Service Commission	Revenue]	7,33,000	46,71,000 54,04,000

No. of Vote/ Appro- priation.	Services and purposes	Sums not exceeding			Total
		Voted	Charged on the Consolidated Fund		
1	2			3	
		Rs.	Rs.		Rs.
32	General Administration Department	Revenue	3,42,66,000	..	3,42,66,000
33	Economic Advice and Statistics	Revenue	1,46,35,000	..	1,46,35,000
34	Other Expenditure pertaining to General Administration Department	Revenue	22,48,97,000	..	22,48,97,000
		Capital	1,85,80,000	..	1,85,80,000
35	State Legislature	Revenue	1,40,18,000	1,34,000	1,41,52,000
36	Loans and Advances to Govern- ment servants in Gujarat Legislature Secretariat.	Capital	19,74,000	..	19,74,000
37	Health and Family Welfare Department	Revenue	69,76,000	..	69,76,000
38	Medical and Public Health	Revenue	1,05,40,92,000	..	1,05,40,92,000
39	Family Welfare	Revenue	22,54,26,000	..	22,54,26,000
40	Water Supply	Revenue	32,41,22,000	..	32,41,22,000
		Capital	59,16,67,000	..	59,16,67,000
41	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	12,65,02,000	..	12,65,02,000
		Capital	4,12,54,000	..	4,12,54,000
42	Home Department	Revenue	64,57,000	..	64,57,000
43	Police	Revenue	1,17,90,82,000	..	1,17,90,82,000
44	Jails	Revenue	3,96,22,000	..	3,96,22,000
45	Transport	Revenue	4,34,82,000	..	4,34,82,000
		Capital	3,33,33,000	..	3,33,33,000
46	Other Expenditure pertaining to Home Department	Revenue	7,81,42,000	50,000	7,81,92,000
		Capital	4,90,33,000	..	4,90,33,000
47	Industries and Mines Department	Revenue	40,92,000	..	40,92,000
48	Stationery and Printing	Revenue	7,75,37,000	..	7,75,37,000
49	Industries	Revenue	26,96,42,000	..	26,96,42,000
		Capital	13,62,92,000	..	13,62,92,000
50	Mines and Minerals	Revenue	3,30,03,000	..	3,30,03,000
51	Other Expenditure pertaining to Industries and Mines Department	Revenue	29,17,000	..	29,17,000
		Capital	88,70,000	..	88,70,000

No. of Vote/ Appropriation.	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2		3		
			Rs.	Rs.	Rs.
52	Information, Broadcasting and Tourism Department	Revenue	11,40,000	..	11,40,000
53	Information and Publicity	Revenue	4,39,72,000	..	4,39,72,000
54	Tourism	Revenue	1,00,13,000	..	1,00,13,000
		Capital	8,33,000	..	8,33,000
55	Other Expenditure pertaining to Information, Broadcasting and Tourism Department	Revenue	50,37,000	..	50,37,000
		Capital	33,60,000	..	33,60,000
56	Labour and Employment Department	Revenue	24,14,000	..	24,14,000
57	Labour and Employment	Revenue	16,73,35,000	..	16,73,35,000
		Capital	33,000	..	33,000
58	Other Expenditure pertaining to Labour and Employment Department	Capital	84,20,000	..	84,20,000
59	Legal Department	Revenue	34,68,000	..	34,68,000
		Capital	8,000	..	8,000
60	Administration of Justice	Revenue	13,28,57,000	1,84,97,000	15,13,54,000
61	Other Expenditure pertaining to Legal Department	Revenue	52,85,000	..	52,85,000
		Capital	60,05,000	..	60,05,000
62	Legislative and Parliamentary Affairs Department	Revenue	28,32,000	..	28,32,000
63	Other Expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	8,90,000	..	8,90,000
64	Narmada and Water Resources Department	Revenue	71,75,000	..	71,75,000
65	Narmada Development Scheme	Capital	3,01,32,45,000	..	3,01,32,45,000
66	Irrigation and Soil Conservation	Revenue	1,84,40,98,000	..	1,84,40,98,000
		Capital	57,92,90,000	..	57,92,90,000
67	Other Expenditure pertaining to Narmada and Water Resources Department	Revenue	4,97,000	..	4,97,000
		Capital	3,64,62,000	..	3,64,62,000

No. of Vote/ Appro- priation.	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2		3		
			Rs.	Rs.	Rs.
68	Panchayats and Rural Housing Department	Revenue	48,28,000	..	48,28,000
69	Community Development	Revenue	31,81,97,000	..	31,81,97,000
70	Rural Housing	Revenue	11,21,87,000	18,52,03,000	29,73,90,000
		Capital	1,31,33,000	..	1,31,33,000
71	Compensations and Assignments	Revenue	6,84,76,000	..	6,84,76,000
72	Other Expenditure pertaining to Panchayats and Rural Housing Department	Revenue	3,61,43,000	..	3,61,43,000
		Capital	8,90,06,000	..	8,90,06,000
73	Fisheries	Revenue	4,07,61,000	..	4,07,61,000
		Capital	68,50,000	..	68,50,000
74	Ports	Capital	4,66,33,000	..	4,66,33,000
75	Other Expenditure pertaining to Ports and Fisheries Department	Revenue	12,96,000	..	12,96,000
		Capital	27,10,000	..	27,10,000
76	Revenue Department	Revenue	1,13,12,000	..	1,13,12,000
77	Tax collection charges (Revenue Department)	Revenue	10,51,04,000	..	10,51,04,000
78	District Administration	Revenue	10,38,62,000	..	10,38,62,000
79	Relief on account of Natural Calamities	Revenue	26,58,33,000	..	26,58,33,000
		Capital	1,75,00,000	..	1,75,00,000
80	Dangs District	Revenue	4,76,30,000	..	4,76,30,000
81	Compensations and Assignments	Revenue	3,14,53,000	9,07,000	3,23,60,000
		Capital	19,67,000	7,66,000	27,33,000
82	Other Expenditure pertaining to Revenue Department	Revenue	17,43,000	1,000	17,44,000
		Capital	1,92,49,000	..	1,92,49,000
83	Roads and Buildings Department	Revenue	81,40,000	..	81,40,000
84	Non-Residential Buildings	Revenue	32,86,70,000	1,04,000	32,87,74,000
		Capital	12,24,58,000	..	12,24,58,000
85	Residential Buildings	Revenue	13,84,32,000	..	13,84,32,000
		Capital	2,65,37,000	..	2,65,37,000
86	Roads and Bridges	Revenue	79,64,02,000	..	79,64,02,000
		Capital	18,85,67,000	..	18,85,67,000

No. of Vote/ Appro- priation.	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund.	Total
1	2			3	
			Rs.	Rs.	Rs.
87	Gujarat Capital Construction Scheme	Revenue	90,48,000	..	90,48,000
		Capital	2,35,00,000	..	2,35,00,000
88	Other Expenditure pertaining to Roads and Buildings Department	Revenue	2,29,70,000	..	2,29,70,000
		Capital	1,89,63,000	..	1,89,63,000
89	Social Welfare and Tribal Development Department	Revenue	37,80,000	..	37,80,000
90	State Excise	Revenue	93,60,000	..	93,60,000
91	Social Security and Welfare	Revenue	25,52,24,000	10,00,000	25,62,24,000
		Capital	44,47,000	..	44,47,000
92	Welfare of Scheduled Tribes	Revenue	9,85,61,000	..	9,85,61,000
		Capital	18,72,000	..	18,72,000
93	Other Expenditure pertaining to Social Welfare and Tribal Development Department.	Capital	72,95,000	..	72,95,000
94	Special Component Plan for Scheduled Castes	Revenue	40,72,15,000	..	40,72,15,000
		Capital	1,89,35,000	..	1,89,35,000
95	Tribal Area Sub-Plan	Revenue	93,92,95,000	..	93,92,95,000
		Capital	25,50,06,000	..	25,50,06,000
96	Urban Development and Urban Housing Department	Revenue	25,07,000	..	25,07,000
97	Urban Housing	Revenue	2,84,22,000	4,53,55,000	7,37,77,000
		Capital	1,78,10,000	..	1,78,10,000
98	Urban Development	Revenue	18,88,39,000	..	18,88,39,000
		Capital	3,12,00,000	..	3,12,00,000
99	Compensations, Assignment and tax collection charges	Revenue	10,00,00,000	2,33,68,000	12,33,68,000
100	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue	34,73,000	..	34,73,000
		Capital	30,55,000	..	30,55,000
101	Youth Services and Cultural Activities Department	Revenue	11,74,000	..	11,74,000
102	Youth Services and Cultural Activities	Revenue	3,16,04,000	..	3,16,04,000

No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2		3		
		Rs.	Rs.	Rs.	
103	Other Expenditure pertaining to Youth Services and Cultural Activities Department	Capital	17,75,000	..	17,75,000
		Revenue	20,63,54,95,000	4,45,23,90,000	25,08,78,85,000
		Capital	6,00,22,94,000	2,18,84,24,000	8,19,07,18,000
		Grand Total	26,63,77,89,000	6,64,08,14,000	33,27,86,03,000

**STATEMENT OF OBJECTS AND REASONS**

This Bill is introduced in pursuance of clause (2) of article 206 of the Constitution of India, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the expenditure charged on the Consolidated Fund of the State of Gujarat and the grants made in advance by the Legislative Assembly in respect of the estimated expenditure for a part of the financial year ending on the 31st March, 1996.

The amounts are shown below :—

	Rs.
(a) Revenue Expenditure	25,08,78,85,000
(b) Capital Expenditure	8,19,07,18,000
Total	33,27,86,03,000

Date the 29th March, 1995

SURESH MEHTA

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 29th March, 1995.





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FRIDAY JUNE 2, 1995/JYAISTHA 12, 1917

Separate paging is given to this Part in order that it  
 may be filed as a separate compilation.

**PART V****Bill Introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 of the Gujarat Legislative Assembly Rules:—

**THE GUJARAT TRIBAL DEVELOPMENT CORPORATION**  
**(AMENDMENT) BILL, 1995.**

Gujarat Bill No. 5 of 1995.

**A BILL**

*further to amend the Gujarat Tribal Development Corporation Act, 1972.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Tribal Development Corporation (Amendment) Act, 1995.

**Short title.**

**Guj. 5 of  
1972,**

2. In the Gujarat Tribal Development Corporation Act, 1972, in section 5, in sub-section (1), for the words "fifteen crores of rupees", where they occur at three places, the words "twenty crores of rupees" shall be substituted.

**Amend-  
ment of  
section 5  
of Guj. 5 of  
1972.**

## STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 5 of the Gujarat Tribal Development Corporation Act, 1972 empowers the State Government to provide to the Corporation a sum not exceeding fifteen crores of rupees as capital that may be required by the Corporation for the purpose of carrying out its functions or for purposes connected therewith. It is considered necessary to increase the ceiling of the capital of the Corporation from fifteen crores of rupees to twenty crores of rupees with a view to enabling the State Government to provide to the Corporation, from time to time, such sums not exceeding twenty crores of rupees as the State Government may think fit as capital that may be required by the Corporation for the aforesaid purposes. This Bill seeks to amend sub-section (1) of section 5 of the Act to achieve the aforesaid object.

KANJIBHAI PATEL.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill, which seeks to amend sub-section (1) of section 5 of the Act, empowers the State Government to provide to the Corporation, from time to time, as capital, such sum not exceeding twenty crores of rupees as the State Government may think fit, by increasing the existing ceiling of the capital of the Corporation from fifteen crores of rupees to twenty crores of rupees. The Bill thus involves an additional non-recurring expenditure of upto five crores of rupees, which may be incurred by the State Government from time to time as the State Government may think fit.

Dated the 1st June, 1995.

KANJIBHAI PATEL.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 2nd June, 1995.



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## EXTRAORDINARY

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### PART V

#### Bill Introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*, The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

#### THE BOMBAY LAND REVENUE (GUJARAT AMENDMENT) BILL, 1995.

#### GUJARAT BILL NO. 6 OF 1995.

#### A BILL

*further to amend the Bombay Land Revenue Code, 1879.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Land Revenue (Gujarat Amendment) Act, 1995.

Short title  
and  
commen-  
cement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Bom. V of  
1879.

2. In the Bombay Land Revenue Code, 1879, for section 157, the following section shall be substituted, namely:—

Substitu-  
tion of  
section 157  
of Bom.  
V of 1879.

“157. (1) At any time after an arrear becomes due, the defaulter (not being an agriculturist from whom such arrear in respect of his occupancy is due) may be arrested and detained in custody for ten days in the office of the Collector or of a Mamlatdar unless the revenue dues together with the penalty or interest and the cost of arrest and of notice of demand, if any, and the cost of his subsistence during detention is sooner paid :

Arrest and  
detention  
of  
defaulter.

Provided that no such arrest shall be made unless the default is wilful and the defaulter is given an opportunity to show cause against his arrest and detention.

(2) If, on the expiry of ten days the amount due by the defaulter is not paid, then, or if the Collector deems fit on any earlier day, he may be sent by the Collector with a warrant, in the form of Schedule C for imprisonment in the civil jail of the district:

Provided that no defaulter shall be detained in imprisonment for a longer period than the time limited by law in the case of the execution of a decree of civil court for a debt equal in amount to the arrear of revenue due by such defaulter."

### STATEMENT OF OBJECTS AND REASONS

A defaulter of Government dues can be arrested and detained under section 157 of the Bombay Land Revenue Code, 1879, and kept in custody for ten days in the office of the Collector or a Mamlatdar. This being a penal provision, it is necessary to observe the principle of natural justice. Therefore, it is proposed to make provision in the said section 157 for personal hearing before detention.

Where dues to be recovered as arrears of land revenue relate to occupancy of an agriculturist, such arrears can be recovered by auction of the land of the occupant or by forfeiting the land in his possession. In such cases, it is not necessary to take action of detention under section 157. It is, therefore, proposed to exclude such cases from the provisions of the said section 157.

This Bill seeks to achieve the aforesaid objects.

ASHOK BHATT.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative power in the following respect :

*Clause 1* : Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 12th June, 1995.

ASHOK BHATT.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 12th June, 1995.



The Gujarat Government Gazette  
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Separate paging is given to this Part in order that it  
 may be filed as a separate compilation.

**PART V**

**Bill introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 22nd June, 1995 by Dr. Shantaben Chavada is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

**GUJARAT BILL NO. 7 OF 1995.**

**THE GUJARAT RESERVATION OF VACANCIES IN POSTS AND SERVICES  
 (FOR SCHEDULED CASTES AND SCHEDULED TRIBES) BILL, 1995.**

**A BILL**

*to provide for adequate representation of Scheduled Castes and Scheduled Tribes  
 in posts and services under the State.*

It is hereby enacted in the Forty-sixth year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1995.

Short  
title,  
extent  
and  
commen-  
cement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Defini-  
tions.

(a) "Prescribed" means prescribed by rules made under this Act,

(b) "recruitment year" means the financial year during which a recruitment is actually made,

(c) "reservation" means reservation of vacancies in posts and services for the Scheduled Castes and Scheduled Tribes,

(d) "Scheduled Castes" shall have reference to the Scheduled Castes specified in the Constitution (Scheduled Castes) Order, 1950 made under Article-341 of the Constitution of India and as amended from time to time,

(e) "Scheduled Tribes" shall have reference to the Scheduled Tribes specified in the Constitution (Scheduled Tribes) Order, 1950 made under Article 342 of the Constitution of India and as amended from time to time,

(f) "Select list" means the list of candidates arranged in order of precedence prepared according to the rules and orders issued by the State Government in that behalf and adopted by the competent authority for making appointment in respect of initial recruitment and promotions,

(g) "State" means the Government of the State of Gujarat.

**Appli-  
cability.**

**3. This Act shall apply to,-**

(1) All appointments to the posts and services under the State except,-

(a) those meant for conducting or guiding or directing research;

(b) those classified as scientific posts;

(c) those filled up on the basis of any contract;

(d) ex-cadre posts;

(e) those which are filled up by transfer or deputation;

(f) such other posts as the State Government may, from time to time by order specify :

Provided that all orders made under clause (f) shall, as soon as after they are made, be laid before the State Legislature for not less than thirty days which may be comprised in one or more sessions,

(2) all appointments to the district level posts,

(3) all appointments in the Panchayats, Boards and Corporation constituted by the State Government.

(4) all appointments in institutions aided by the State Government,

(5) all other appointments, which the State Government may specify from time to time.

**Reserva-  
tion and  
the  
percen-  
tage  
thereof.**

4. (1) Except as otherwise provided in this Act, the vacancies reserved for the Scheduled Castes and the Scheduled Tribes shall not be filled up by candidates not belonging to the Scheduled Castes and Scheduled Tribes.

(2) The reservation of vacancies in posts and services shall be at such percentage of the total number of vacancies as the State Government may, from time to time by order determine :



Provided that-

(a) in the case of initial recruitment the percentage so determined shall, in no case be less than the percentage of the persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of the State.

(b) in the case of initial recruitment the district level posts, the percentage so determined shall, in no case be less than the percentage of the persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of that district and in no case be less than the percentage of persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of the State

(c) save as otherwise provided in this Act, in the case of appointments by way of promotions the percentage of reservation shall be such as is laid down in paragraphs (a) and (b).

*Explanation.*-The expression "population" means the population as ascertained at the last census for which the relevant figures have been published.

5. (1) The State Government shall prescribe model roster indicating the number of vacancies to be reserved for the Scheduled Castes and Scheduled Tribes and the number of vacancies to be left unreserved.

Model  
Roster.

(2) The appointing authorities shall maintain roster in the prescribed form.

(3) The roster shall be consulted for ascertaining the number of reserved vacancies only but the appointment shall be made in accordance with the order of precedence as shown in the select list.

6. If, in any recruitment year, the number of candidates ther from Scheduled Castes or Scheduled Tribes is less than the number of vacancies reserved for them the remaining vacancies may be filled up by general candidates after dereserving the vacancies in the prescribed manner, but the vacancies so dereserved shall be carried forward to the subsequent three years of recruitment.

Carry  
forward  
of  
reserva-  
tion and  
dereserva-  
tion.

7. For initial appointments for the candidates belonging to Scheduled Castes and Scheduled Tribes—

Relaxa-  
tion and  
conce-  
ssions.

(a) the upper age-limit prescribed for recruitment shall be relaxed by five years.

(b) fee prescribed for application for any post shall be one fourth of what it is for others.

(c) travelling allowance to attend competitive written examination and oral interview shall be paid at such rates as may be prescribed by the State Government.

(d) percentage of passing the competitive and departmental examinations shall be relaxed by 5 percent.

8. (1) For recruitment through employment exchange the number of vacancies reserved for Scheduled Castes and Scheduled Tribes shall be specified in the requisition to be sent to the employment exchange against the total number of vacancies.

Manner  
of initial  
recruit-  
ment.

(2) For recruitment to be made through the Gujarat Public Service Commission or any Selection Board on the basis of competitive examination or interview the advertisement shall specify the number of vacancies reserved for Scheduled Castes and Scheduled Tribes against the total number of vacancies.

(3) The Scheduled Castes and Scheduled Tribes candidates shall be recruited to the extent of the reserved vacancies if they possess the minimum qualifications required for the posts or services.



(4) If the required number of Scheduled Castes and Scheduled Tribes candidates are not available for filling up the reserved vacancies, a fresh recruitment shall be made only from candidates belonging to the Scheduled Castes or Scheduled Tribes, as the case may be, for filling up the remaining reserved vacancies.

(5) If after making such fresh recruitment candidates belonging to the Scheduled Castes or Scheduled Tribes are still not available or if the number of such candidates is less than number of reserved vacancies, the vacancies which remain unfilled shall be filled up by general candidates in accordance with the procedure laid down in section 6.

(6) For district level posts if the candidates belonging to Scheduled Castes or Scheduled Tribes, as the case may be, are not available in the district employment exchange in sufficient number at the time of initial recruitment, the employment exchange of other districts where there is large population of Scheduled Castes or Scheduled Tribes, as the case may be, shall be consulted.

9. (1) Where promotion is to be made on the basis of seniority subject to fitness, the Scheduled Castes and Scheduled Tribes officers shall be promoted to the next higher post or grade against reserved vacancies provided they possess the minimum qualifications and experience required for such promotion.

Promotion based on seniority cum-fitness.

(2) The number of reserved vacancies shall be determined on the basis of the reserved posts shown in the roster maintained under Section 5.

10. Where promotion is to be made on the basis of selection and the element of direct recruitment does not exceed fifty percent, the procedure for filling up of the reserved vacancies shall be such as may be prescribed and the number of reserved vacancies shall be determined on the basis of the reserved points shown in the roster maintained under Section 5.

Promotion based on selection.

11. Where selection is to be made from different services the recruiting or appointing authority shall select Scheduled Castes and Scheduled Tribes candidates to the extent of reserved quota, provided such candidates satisfy the minimum conditions of suitability, qualification and experience laid down in respect of the post concerned.

Selection from different services.

12. (1) Every appointing authority shall furnish to the State Government annual report in the prescribed manner by the end of the month of June of the succeeding financial year and maintain such other records as may be prescribed.

Submission of Annual Report, Maintenance of other records and inspection thereof.

(2) Any officer authorised by the State Government in that behalf may inspect any record or documents and require the appointing authority to produce the roster and other records relating to appointments made by it and which are maintained in its office.

(3) It shall be the duty of the appointing authority to produce such records and documents, furnish such information and afford all such assistance and facilities as may be necessary for the aforesaid purpose.

13. In each department of the State Government an officer not below the rank of an Under Secretary authorised by the Secretary of the department in that behalf shall act as Liaison Officer in respect of the matter provided in this Act who shall be specially responsible for,—

Nomination of Liaison Officer.

(a) ensuring proper implementation of the provisions of this Act and the rules made thereunder,

(b) ensuring compliance by the subordinate authorities,

(c) ensuring timely submission of returns,

(d) conducting annual inspections of rosters and such other record as may be prescribed.

(e) acting as Liaison Officer between the administrative department and the Social Welfare Department.

(f) ensuring necessary assistance to the Social Welfare Department in the investigation of complaints received from individuals or organisations belonging to Scheduled Castes and Scheduled Tribes.

**Constitution of Standing Committee.**

14. (1) There shall be a Standing Committee consisting of the following members, namely :—

(a) The Minister for Social Welfare—Chairman.

(b) Three members of the Gujarat Legislative Assembly to be elected in such manner as may be determined by the Speaker of the Gujarat Legislative Assembly—Members.

(c) The Chief Secretary to Government—Member.

(d) The Secretary to Government, Home Department—Member.

(e) The Secretary to Government, Social Welfare Department—Member Secretary:

Provided that on issue of a proclamation under Article 356 of the Constitution of India the composition of the committee may be altered by the State Government to such extent as it may deem fit.

**Functions of the standing committee.**

15. (1) The Committee shall meet at least thrice a year and the period between any two meetings shall not be more than six months.

(2) The Committee shall perform the following functions, namely :—

(i) review of the implementation of the provisions of this Act and rules made thereunder,

(ii) suggest measures for the removal of difficulties in such implementation or for the improvement thereof and

(iii) such other functions as the State Government may from time to time assign to the Committee.

**Annual Report.**

16. The State Government shall prepare an annual report on the working of the Act and lay the same before the State Legislature for a period of not less than fifteen days in the Budget Session of the succeeding financial year.

**Legal aid.**

17. Legal aid shall be made available by the State Government at the prescribed rates to the employees belonging to Scheduled Castes and Scheduled Tribes in cases of their grievances.

**Rule making power.**

18. (1) The State Government may, by notification in the Official Gazette (after previous publication), make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, they may make rules in respect of all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under this Act shall, as soon as may be, after they are made, be laid before the State Legislature for not less than thirty days which may be comprised in one or more sessions and if during the said period, the State Legislature makes any modifications therein, the rules shall thereafter have effect only in such modified form so however that such modifications shall be without prejudice to the validity of any thing previously done under the rules.

**Overriding effect of the Act.**

19. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other law or in any rule, order or resolution made by the State Government.

## STATEMENT OF OBJECTS AND REASONS.

According to Constitutional provisions, the State Government have made several administrative orders for implementation of policy of reservation for Scheduled Castes and Scheduled Tribes. But due to lack of effective control the provisions of such administrative order could not be strictly implemented and the employees belonging to Scheduled Castes and Scheduled Tribes have to face injustice many a time. This Bill, therefore, provides for the effective implementation of the policy.

Gandhinagar.  
Dated the 31st March, 1995.

DR. SHANTABEN CHAVADA,  
M.L.A.

## FINANCIAL MEMORANDUM

Clause 14 of the Bill requires the State Government to constitute standing committee and Clause 15 requires at least three meetings to be held in a year. Clause 17 requires the State Government to make available legal aids to employees belonging to Scheduled Castes and Scheduled Tribes at the prescribed rates. It is estimated that the expenditure to be involved from the Consolidated Fund of the State in regard to above provisions would be about rupees two lakhs per annum.

Gandhinagar.  
Dated the 31st March, 1995.

DR. SHANTABEN CHAVADA,  
M.L.A.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of Clause 1, empowers the State Government to appoint by notification in the Official Gazette the date on which the Act shall come into force.

Paragraph (f) of sub-clause (1) of clause 3 empowers the State Government to specify by order posts other than those specified in the sub-clause.

Sub-clause (3) of clause 3 empowers the State Government to specify from time to time appointments other than those specified in the preceding sub-clauses.

Sub-clause (2) of clause 4 empowers the State Government to determine the percentage of reservation of vacancies in posts and services.

Sub-clause (1) of Clause 5 empowers the State Government to prescribe model roster.

Sub-clause (2) of Clause 5 empowers the State Government to prescribe form for maintaining roster.

Clause 6 empowers the State Government to prescribe manner for filling up reserved vacancies by general candidates in case the number of candidates from Scheduled Castes and Scheduled Tribes is less than the number of vacancies reserved for them.

Paragraph (c) of clause 7 empowers the State Government to prescribe rates of travelling allowance to be paid to the candidates belonging to the Scheduled Castes and Scheduled Tribes for attending competitive examination or oral interviews.

Clause 10 of the Bill empowers the State Government to prescribe procedure for filling up the reserved vacancies where promotion is to be made on the basis of selection and the element of direct recruitment does not exceed fifty percent.

Sub-clause (1) of clause 12 empowers the State Government to prescribe a manner for furnishing annual report to the State Government and to maintain other records.

Paragraph (d) of clause 13 empowers the State Government to prescribe other records the Liaison Officer shall be responsible for conducting annual inspection.

Paragraph (b) of clause 14 empowers the Speakers of the Gujarat Legislative Assembly to determine manner for electing members of the Assembly on the Standing Committee.

The proviso to clause 14 empowers the State Government to alter the composition of the Standing Committee on issue of proclamation under Article 356 of the Constitution to such extent as it may deem fit.

Paragraph (iii) of sub-clause (2), of clause 15 empowers the State Government to assign to the Standing Committee other functions from time to time.

Clause 17 of the Bill empowers the State Government to prescribe rates for making available legal aid to the employees belonging to the Scheduled Castes and Scheduled Tribes.

Sub-clause (1) of clause 18 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is essential and of normal character.

Gandhinagar.

Dated the 31st March, 1995.

DR. SHANTABEN CHAVADA,

M. L. A.

Gandhinagar,

Dated the 22nd June, 1995.

N. K. KATHIRIA,

Secretary,

Gujarat Legislative Assembly.



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 may be filed as a separate compilation.

**PART V****Bill Introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 22nd June, 1995 by Dr. Shantaben Chavada is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

**GUJARAT BILL NO. 8 OF 1995.**

**THE MEDICAL TERMINATION OF PREGNANCY (GUJARAT AMENDMENT)**  
**BILL, 1995.**

*A BILL*

*further to amend the Medical Termination of Pregnancy Act, 1971 in its application to the State of Gujarat for certain purposes.*

It is hereby enacted in the Forty-sixth year of the Republic of India as follows:—

1. (1) This Act may be called the Medical Termination of Pregnancy (Gujarat Amendment) Act, 1995.

(2) It extends to the whole of the State of Gujarat.

2. In the Medical Termination of Pregnancy Act, 1971, in section 3, after sub-section (4), the following sub-sections shall be added, namely:—

“(5) No pregnancy of a woman shall be terminated on the basis of sonerium test and the registered medical practitioner who performs the termination of pregnancy shall give an undertaking that pregnancy was not terminated because of the prior knowledge of the sex of the child.

Short  
title and  
extent.

Amend-  
ment of  
section 3  
of 34 of  
1971.

34 of  
1971.

(6) Any registered medical practitioner who terminates the pregnancy of a woman with or without her consent after it is known to him that sex of the child is female, shall be debarred from performing any further operation of termination of pregnancy."

#### STATEMENT OF OBJECTS AND REASONS.

In view of the prevalence of the dowry system and social status of a woman in general, attempts are being made to terminate the pregnancy, if on the basis of the sonerium test it is found that the child in the womb is of a female sex.

In order to prevent mis-use of the Medical Termination of Pregnancy Act, 1971 the above amendment is proposed.

Gandhinagar.

Dated the 31st March, 1995.

Dr. SHANTABEN CHAVADA.  
M. L. A.

Gandhinagar,

Dated the 22nd June, 1995.

N. K. KATHIRIA,  
Secretary,  
Gujarat Legislative Assembly.





सत्यमेव जयते

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**PART V**

**Bill Introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 22nd June, 1995 by Dr. Shantaben Chavada is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

Gujarat Bill No. 9 of 1995.

**THE GUJARAT PROHIBITION OF EVE-TEASING BILL, 1995.**

**A BILL**

*to prohibit eve-teasing and to provide for certain other matters connected therewith.*

Whereas it is expedient to prohibit eve-teasing and to provide for certain other matters connected therewith. It is hereby enacted in the Forty-sixth year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Prohibition of Eve-teasing Act, 1995.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Short title,  
extent  
and co-  
mence-  
ment.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) The word "Man" denotes a male human being of any age, the word "Woman" denotes a female human being of any age;

(b) "Public place" means any place intended for use by, or accessible to the public and includes any public conveyance.

**Eve-teasing**

3. 'Eve-tease' means a man by words either spoken or written or by sings recites or utters any indecent words or by visible representation or gestures or by song or ballad does any act to the annoyance of any woman in any public place.

**Punishment for Eve-teasing.**

4. (1) If a person indulges in Eve-teasing, he shall, on first conviction, be punished with imprisonment for a term which may extend to fifteen days and shall also be liable to fine :

Provided that the term of imprisonment in such cases shall not be less than seven days.

(2) In the event of a second or subsequent conviction, the offender shall be punishable with imprisonment for a term which may extend to one month and shall also be liable to fine :

Provided that the term of imprisonment in such cases shall not be less than fifteen days.

**Offences to be cognizable and non-bailable.**

5. Notwithstanding anything contained in any other law for the time being in force an offence under this Act shall be cognizable and non-bailable.

**Power of court to try cases summarily.**

6. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be tried by summary procedure by a Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial.



## STATEMENT OF OBJECTS AND REASONS

In recent years there has been a significant increase in the complaints of Eve-teasing especially at public places and the existing provisions in general laws have been found to be inadequate for tackling this growing menace effectively. Eve teasing is a stigma on the society and it should be nipped in bud. It is, therefore, expedient in the public interest to devise legislative measures with a view to tackling this social evil more effectively. In order to prove such legislative measure a psychologically deterrent to the offenders, the offence of Eve-teasing should be made cognizable and non bailable. A provision should also be made for summary trial of cases in the interest of speedy justice.

This Bill is intended to achieve the aforesaid objects.

Gandhinagar.  
Dated the 31st March, 1995.

DR. SHANTABEN CHAVADA,  
M.L.A.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposal for delegation of legislative powers:-

Clause 1(3)—This clause provides that the Act shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

The above proposal is of a normal character.

Gandhinagar,  
Dated the 31st March, 1995.

DR. SHANTABEN CHAVADA,  
M.L.A.

Gandhinagar,  
Dated the 22nd June, 1995.

N. K. KATHIRIA,  
Secretary,  
Gujarat Legislative Assembly.



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**PART V****Bill Introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 22nd June, 1995 by Dr. Shantaben Chavada is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

**GUJARAT BILL NO. 10 OF 1995.****THE GUJARAT MUNICIPALITIES (AMENDMENT) BILL, 1995****A BILL***further to amend the Gujarat Municipalities Act, 1963*

It is hereby enacted in the Fortysixth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Municipalities (Amendment) Act, 1995.
2. In the Gujarat Municipalities Act, 1963, after section 56, the following section shall be inserted, namely :—

"56.A (1) In every municipality, there shall be a committee called the Social Justice Committee for performing such functions as are essential for securing social justice to the weaker sections of the society including persons belonging to the Scheduled Castes and Scheduled Tribes residing within the Municipal Borough.

(2) The Social Justice Committee shall consist of 15 members to be elected by the municipality from amongst its councillors who shall belong to Scheduled Castes or Scheduled Tribes:

Short title

Insertion  
 of new  
 section  
 56 A in  
 Guj. 34 of  
 1964.

Social  
 Justice  
 Committee.

Provided that if the number of such councillors in the municipality is less than 15, all such councillors shall be the members of the Committee and the municipality may, by a resolution, elect one or more persons belonging to the Scheduled Castes or Scheduled Tribes and residing within the Municipal Borough as the remaining member or members of the committee.

(3) The term of the committee shall be co-extensive with the term of the municipality.

(4) The members of the Committee shall at its first meeting elect from amongst themselves the Chairman and Vice-Chairman of the Committee. The Chairman and in his absence the Vice-Chairman shall preside over and regulate the meetings of the committee.

(5) The Committee shall consider and decide any issue or issues involving the interest of the Scheduled Castes and Scheduled Tribes.

(6) Any person aggrieved by the decision of the Committee may prefer an appeal to the State Government within a period of thirty days from the date of such decision and the State Government shall, on such appeal make such order as it thinks just and proper and such order shall be final.

#### STATEMENT OF OBJECTS AND REASONS

The Gujarat Panchayats Act, 1993 provides for constituting a Social Justice Committee for securing social justice to the Scheduled Castes and Scheduled Tribes residing within the respective panchayat. However, there is no such provision in the Gujarat Municipalities Act, 1963. The Bill seeks to make similar provisions in the said Act.

There are many problems with regard to the residential premises, employment and other primary amenities of the Scheduled Castes and Scheduled Tribes people in the urban areas. These problems do not at present receive due attention and are not taken up on top priority basis.

These people do not find adequate representation in the Municipalities as well as other committees of the Municipalities and hence their interests are not duly safeguarded. The object of the Bill is to safeguard the interest of these people through the Social Justice Committee.

Gandhinagar.  
Dated the 19th April, 1995.

DR. SHANTABEN CHAVADA,  
M.L.A.

Gandhinagar,  
Dated the 22nd June, 1995.

N. K. KATHIRIA,  
Secretary,  
Gujarat Legislative Assembly.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 22nd June, 1995 by Shri Dinsha Patel is published under rule 127-A of the Gujarat Legislative Assembly Rules for general Information :—

**GUJARAT BILL NO. 11 OF 1995.**

**THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS' PENSION  
(REPEAL) BILL, 1995.**

*A BILL*

*to repeal the Gujarat Legislative Assembly Members' Pension Act, 1984.*

It is hereby enacted in the Forty-sixth year of the Republic of India as follows :

Short title  
and Com-  
mence-  
ment

1. (1) This Act may be called the Gujarat Legislative Assembly Members' Pension (Repeal) Act, 1995.

(2) This Act shall be deemed to have come into force on the 8th August, 1989 i.e. the date on which the Gujarat Act No. 18 of 1989 has come into force.

Repeal of  
Guj. 18 of  
1989.

2. The Gujarat Legislative Assembly Members' Pension Act, 1984 (Gujarat Act No. 18 of 1989) is hereby repealed.

## STATEMENT OF OBJECTS AND REASONS

The Pension Act provides for giving pension to all Members of the Gujarat Legislative Assembly who have served as a Member for one or more terms. It does not make any exception and all Members are entitled to receive the pension irrespective of their financial condition. Members are joining public services on their own. Nobody is compelling them to join the public service and contest the election. No doubt, there are some cases in which retired Members require some financial assistance. Assistance could be given to these Members by Executive Order if the fact is brought to the notice of the State Government. The purpose of this Act is to help the needy retired Members instead of entitling all Members for the pension. Hence this bill.

Gandhinagar,  
Dated the 6th April, 1995.

DINSHA PATEL,  
M.L.A.

Gandhinagar,  
Dated the 22nd June, 1995.

N. K. KATHIRIA  
SECRETARY  
GUJARAT LEGISLATIVE ASSEMBLY.



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**PART V**

**Bill introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 22nd June, 1995 by Dr. Shantaben Chavada, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

**GUJARAT BILL NO. 12 OF 1995.**

**THE SAURASHTRA UNDERGROUND WATER RECHARGE AUTHORITY  
 BILL 1995.**

*A BILL*

*to provide for establishment of an authority to make special provision and to undertake special programmes for increasing under ground waterlevel of the Saurashtra areas of the State and for matters and purposes connected therewith.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Saurashtra Underground Water Recharge Authority Act, 1995.

Short  
title, ex-  
tent and  
commen-  
cement.

(2) It extends to the areas of the Saurashtra comprising the districts of Amreli, Bhavnagar, Junagadh, Jamnagar, Rajkot, Surendranagar and such other adjacent areas as may be specified by the State Government.

(3) It shall come into force at once.

2. In this act, unless the context otherwise requires :

Defini-  
tions.

(a) "Authority" means the Saurashtra Underground Water Recharge Authority established by the State Government under section 3 of this Act :

(b) "Saurashtra areas" means the areas comprising the districts of Amreli, Bhavnagar, Junagadh, Jamnagar, Rajkot, Surendranagar and such other adjacent areas as may be specified by the State Government in this behalf.

(c) "Prescribed" means prescribed by rules made under this Act.

(d) "State Government" means the Government of the State of Gujarat.

(e) "Underground water" means water below the ground level which is drawn for the domestic, agriculture or for any other purposes.

**Establi-  
shment  
of the  
Saurash-  
tra Under-  
ground  
Water  
Recharge  
Autho-  
rity.**

3. (1) The State Government, with effect from such date as may be notified in the Official Gazette, shall establish an Authority to be called the Saurashtra Underground Water Recharge Authority for increasing the underground water level of Saurashtra areas.

(2) The Authority established under sub-section (1) shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its name and shall be competent to acquire and hold property both movable and immovable and to contract and do all things necessary for the purpose of this Act.

(3) For the purposes of this Act, the Authority established under sub-section (1) shall be deemed to be a Local Authority.

**Consti-  
tution  
and term  
of office  
of the  
Autho-  
rity.**

4. (1) The Authority shall consist of the Chairman and five other members as may be appointed by the State Government :

Provided that the Chairman and members shall be persons having adequate technical knowledge and experience in the matter.

Provided further that out of the five members to be appointed by the State Government :—

(i) One Member shall be the President or a Member of the District Panchayat from amongst the District Panchayats of the Saurashtra areas, having technical knowledge and aptitude ;

(ii) One member shall be a member of the Gujarat Legislative Assembly from amongst the Saurashtra areas of the State.

(iii) One member shall be from the College of Engineering attached to the Saurashtra University.

(2) The term of office of the Chairman and the members of the Authority shall be three years from the date of their appointment.

Provided that the President or a member of the District Panchayat and the member of the Gujarat Legislative Assembly shall cease to be Members of the Authority as soon as they cease to be the members of the respective bodies.



(3) The salaries, other allowances, conditions of service and other matters concerning the Chairman and the members of the Authority shall be such as may be prescribed by the State Government by a notification published in the Official Gazette.

5. (1) For the purposes of this Act, the Authority shall programme and implement the schemes for the recharge of underground water of the Saurashtra areas. The schemes shall be prepared by the Authority using the latest available technology and shall have proven result in the field of recharge of underground water.

**Functions of the Authority.**

(2) For the purpose of undertaking the schemes and regulations made under this Act, the Authority shall have a right to enter or use any land of the Saurashtra areas specified under this Act.

(3) The detailed rules for undertaking the work of the scheme shall be framed by the Authority and shall come into force after it is approved by the State Government.

6. (1) The State Government shall provide necessary fund to the Authority for carrying out its activities.

**Funds and accounts of the Authority.**

(2) The Authority shall have power to borrow money or raise funds through a suitable financial instrument from public or any institution recognised by the State Government or Central Government and shall also have power to accept donations.

(3) The Authority shall deposit the fund or money received by it with the State Bank of India or any other Bank approved by the State Government and the Bank account shall be operated by such persons of the Authority as may be authorised by it.

(4) The Accounts of the Authority shall be maintained in such form as may be prescribed by the State Government.

7. The Authority shall prepare a report at the end of each year which shall consist of its programmes, the activities undertaken and the accounts of the Authority. The report shall be submitted to the State Government and the State Government shall cause it to be laid on the Table of the State Legislature.

**Annual Report.**

8. (1) The State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

**Power to make rules.**

(2) Rules made under this section shall be laid before the State Legislature as soon as possible after they are made and shall be subject to such modification as the State Legislature may make in the session in which they are so laid.

(3) Any modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

9. The Authority may, from time to time with the previous sanction of the State Government, make the regulations consistent with the provisions of this Act and the rules made thereunder for carrying out its day to day business.

**Regulations.**

## STATEMENT OF OBJECTS AND REASONS.

In the areas of Saurashtra, the rivers are not perennial and therefore, it is not possible to provide canal irrigation. In absence of canal irrigation, the agriculture has to rely on the underground water and for this reason day by day the number of tubewells are being increased. It is therefore obviously seen that the underground water level is going down day by day. It is also apprehended that in some areas of Saurashtra, the quantum of underground water is going to be exhausted in a couple of ensuing years. The potable water is also not provided for the purpose of drinking and the people of this area have to rely on the available underground water which consists of fluoride and other dissolved impurities which in turn cause serious health hazards. No systematic programme has been undertaken by the State Government for the recharge of the underground water. With a view to overcome this serious problem, it is suggested to establish the Saurashtra Underground Water recharge Authority which will look after this problem and undertake the schemes.

Hence this Bill.

Dated the 19th April, 1995.

Dr. SHANTABEN CHAVADA.

M. L. A.

## FINANCIAL MEMORANDUM

Sub-clause (3) of Clause 4 provides for salaries and other allowances to the Chairman and members of the Authority and clause 6 of the Bill provides for necessary fund for carrying out the activities of the Authority. This Bill if enacted and brought into operation would involve recurring expenditure of approximately Rs. 2 crores from the Consolidated Fund of the State.

Dated the 19th April, 1995.

Dr. SHANTABEN CHAVADA.

M.L.A.

## MEMORANDUM REGARDING DELEGATED LEGISLATION.

Sub-clause (2) of clause 1 empowers the State Government to specify areas other than the areas comprising the district of Amreli, Bhavnagar, Junagadh, Jamnagar, Rajkot and Surendranagar.

Sub-clause (1) of clause 3 empowers the State Government to appoint an authority to be called "The Saurashtra Underground Water Recharge Authority" and to appoint a date on which it shall be effective.

Sub-clause (1) of clause 4 empowers the State Government to appoint to the Authority, the Chairman and five other members.

Sub-clause (3) of clause 4 empowers the State Government to prescribe the salaries, other allowances, condition of service and other matters concerning the Chairman and the members of the Authority.

Sub-clause (2) of clause 5 empowers the State Government to make rules and regulations subject to which the Authority shall have right to enter or use any land of the Saurashtra Area.

Sub-clause (3) of clause 5 empowers the State Government to approve the detailed rules framed by the Authority for undertaking the works of the scheme.

Sub-clause (3) of clause 6 empowers the State Government to approve any Bank, other than the State Bank of India, in which the Authority shall deposit the fund or money received by it.

Sub-clause (4) of clause 6 empowers the State Government to prescribe a form, in which the accounts of the Authority shall be maintained.

Sub-clause (1) of the clause 8 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is essential and of normal character.

Dated the 19th April, 1995.

Dr. SHANTABEN CHAVADA.

M. L. A.

Gandhinagar,

N. K. KATHIRIA,

Dated the 22nd June, 1995.

Secretary,  
Gujarat Legislative Assembly.



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may be filed as a separate compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 22nd June, 1995 by Shri Dinsha Patel is published under rule 127-A of the Gujarat Legislative Assembly Rules for general Information :—

**GUJARAT BILL NO. 13 OF 1995.**

**THE GUJARAT PREVENTION OF ACCIDENTS ON HIGHWAYS BILL,  
1995.**

**A BILL**

*to make provisions for prevention of accidents on highways and for matters  
connected therewith.*

It is hereby enacted in the Forty Sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Prevention of Accidents on Highways Act, 1995. Short title  
and Com-  
mence-ment.

(2) It shall come into force at once.

2. In this Act unless the context otherwise requires-

Definitions.

(a) "Special Authority" means the Authority constituted under this Act.

(b) "Highway" means, State Highways, National Highways and such other Roads as may be classified as such by the State Government.

(c) "Traffic Police" Means a section of the Gujarat Police looking after the regulations of Highway Traffic.

(d) The expressions which are used, but not defined shall have the same meaning as are assigned to them in the Motor Vehicles, Act, 1988.

Establishment of Special Authority.

3. (1) The State Government shall, by notification in the Official Gazette, establish a special authority for the Prevention of Accidents on Highways in the State of Gujarat.

(2) The Special Authority shall consist of the Chairman and such other members not exceeding 14 as may be appointed by the State Government.

Provided that out of 14 members to be appointed on the Authority by the State Government atleast two members shall be appointed from amongst the members of the State Legislative Assembly.

Tenure of the members of the Authority.

4. The Chairman and the members of the Special Authority shall be appointed for a period of 3 years from the date of their appointment.

Provided that the members of Gujarat Legislative Assembly shall continue to be members of the Special Authority so long as they cease to be members of the Assembly.

Payment of allowances to the Chairman and other members of the Authority.

5. The Chairman and the members of the Special Authority shall not be entitled to receive any salary but they shall be entitled to receive such allowances for performing their duties as may be determined by the State Government.

Staff under the Special Authority.

6. (1) The staff under the Special Authority shall consist of:-

(a) Secretary, who shall be appointed by the Government and;

(b) Such other employees as the Special Authority may, with the previous approval of the Government, appoint from time to time.

(2) The salary of the Secretary and other employees shall be such as may be prescribed.

(3) The other terms and conditions of the services of the Secretary and other employees shall be such as may be prescribed.

**7. The functions of the Special Authority shall be:**

Rules.

(a) To supervise the road traffic and to suggest the measures for avoiding accidents on the Highways.

(b) to keep record of Accidents and to find out the common causes of the accidents and to suggest the remedial measures.

(c) to suggest changes in the existing Highway Traffic rules.

(d) The State Highway Police shall implement the suggestions made by the Special Authority and shall also carry out the instructions issued by it and will provide necessary assistance to the Authority.

8. (1) The State Government may frame the rules by notification in the Official Gazette to carry out the objects of the Act.

(2) The rules made under this section shall be laid before the Legislature of the state at the session thereof next following and shall be liable to be modified or rescinded by a resolution passed by the Legislature and such rules after notifying in the Official Gazette, be deemed to have been modified or rescinded accordingly.

### STATEMENT OF OBJECTS AND REASONS

At present the Road Accidents on the Highways of Gujarat are increasing at an alarming rate. Every day several accidents occur on the highways resulting in loss of lives of the people and also making many people impaired by severe and permanent injuries.

The existing machinery of Highway Police which looks after the Highway Traffic is not sufficient to check the Highway Accidents.

Therefore, a separate Authority is proposed to be set up to suggest measures and issue directions to the highway Traffic Police with a view to control and minimise accidents taking place on highways of Gujarat.

Gandhinagar,  
Dated the 9th May, 1995.

DINSHA PATEL,  
M.L.A.



**FINANCIAL MEMORANDUM**

Sections 5 and 6 provide for giving salaries and allowances to the Chairman, Members and Staff of the Special Authority which may involve expenditure from the Consolidated Fund of the state of about Rs. 15 lacs per year.

Gandhinagar,  
Dated the 9th May, 1995.

**DINSHA PATEL,**  
M.L.A.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill provides for delegation of Legislative powers in the following respects:-

*Clause 3.*—This clause empowers the state Government to appoint, by notification in the Official Gazette, a Special Authority.

*Clause 5.*—This clause empowers the state Government to determine the allowances to the Chairman and members of the Authority.

*Clause 6.*—This clause empowers the state Government to approve the strength and other conditions of services of the secretary and employees under the Special Authority.

*Clause 8.*—This clause empowers the State Government to frame the rules to carry out the objects of the Act.

The delegation of legislative powers as aforesaid is of normal character.

Gandhinagar,  
Dated the 9th May, 1995.

DINSHA PATEL,  
M.L.A.

Gandhinagar,  
Dated the 22nd June, 1995.

N. K. KATHIRIA  
SECRETARY  
GUJARAT LEGISLATIVE ASSEMBLY.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 22nd June, 1995 by Shri Dinsha Patel is published under rule 127-A of the Gujarat Legislative Assembly Rules for general Information :—

**GUJARAT BILL NO. 14 OF 1995.**

**THE GUJARAT FAMILY WELFARE BILL, 1995**

**A BILL**

*to control the population growth and provide measures to restrict the size of the family so as to provide opportunities for individual development and to attain family welfare in the State of Gujarat and for matters connected therewith.*

It is hereby enacted in the Forty sixth year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Family Welfare Act, 1995.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification, in the Official Gazette, appoint.

Short title,  
extent and  
commence-  
ment.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Public Servant" means,-

(i) any person in the service or pay of the State Government or remunerated by fees or commission for the performance of any duty by the State Government.

(ii) any person in the service or pay of a local authority or a Corporation established under the State or Central Act or a body owned or controlled or aided by the State Government or a Government Company established by the State Government under Section 617 of the Companies Act, 1956.

(b) "Local Body" means a body constituted under the Bombay Provincial Municipal Corporations Act, 1949 or the Gujarat Municipalities Act, 1963 or the Gujarat Panchayats Act, 1993 or any other Act under which a body is created or constituted in the State of Gujarat; Bom. 59 of 1949. Guj. 34 of 1964. Guj. 18 of 1993. Guj. 18 of 1993.

(c) "University" means any University established by law in the state of Gujarat and includes any other institution recognised by the University Grants Commission.

(d) "Public Distribution System" means a system under which essential commodities such as, food grain, sugar, kerosin, cooking oils, etc. are provided through fair price shop on family card or regulated under the Essential Commodities Act, 1955 or any other Act or rules framed by the state Government; 10. of 1955.

(e) "Educational Institution" means an institution imparting primary or Secondary or higher education, recognised or registered under the Bombay Primary Education Act, 1947 or the Gujarat Secondary Education Act, 1973 or under any University established by law in the State of Gujarat or other Authority constituted under the state or Central Act; Bom. 61 of 1947. Guj. 18 of 1973.

(f) "Specified Date" means a date specified for bringing into effect the provisions of this Act which shall be the date one year later than the date fixed under sub-section (3) of section 1.

Disqualification on Violation of small family norm. 3. A person shall be disqualified for the purposes enumerated in section 4 of this act if he has more than two children.

Provided that nothing contained in this Section shall apply to any person-

(a) having more than two children on the date of commencement of the Act or as the case may be, within a period of one year of such commencement, unless he begets an additional child after the said period of one year;

(b) having one child on the date of commencement of the Act or as the case may be, within a period of one year of such commencement, if a subsequent child birth results in the birth of more than one child.

*Explanation.*-For the purposes of this Section, a person shall not cease to incur disqualification merely by reason of his giving his child in adoption.

Disqualified persons not entitled to certain benefits/facilities.

4. A person disqualified under section 3 of this Act shall-

- (1) not be entitled to a membership of a local Body;
- (2) if he is a public servant, not be entitled to get-
  - (a) yearly increment or due promotion;
  - (b) facilities such as advances for purchase of residential accommodation, vehicles and food-grains;
- (3) if he is a person working in the University or any other educational institution as clerical or teaching staff, not be entitled to get yearly increment or due promotion.
- (4) not be entitled to avail medical facility in any hospital run by the State Government or by a local body or by any other authority receiving grant of the State Government.
- (5) not be entitled to get any essential commodity from the fair price shop or avail any facility under the Public Distribution System.
- (6) not be entitled to a new gas connection.

5. (1) The Director of Health and Medical Services shall take all necessary measures to create awareness of the provisions of this Act.

Functions of  
Director of  
Health &  
Medical Ser-  
vices.

(2) The Director of Health and Medical Services of the State of Gujarat shall supervise the implementation of this Act and shall prepare a statement of breach of the provisions of this Act and shall cause it to be laid on the table of the Gujarat Legislative Assembly.

6. (1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

Power to  
make rules.

(2) Rules made under this section shall be laid before the State Legislature as soon as possible after they are made and shall be subject to such modifications or rescission as the State Legislature may make in the session in which they are so laid.

(3) Any modification or rescission so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

**STATEMENT OF OBJECTS AND REASONS**

After independence, large scale socio-economic development activities have been undertaken by the state. Simultaneously, unchecked birth rate has adverse implications on our socio- economic development, which has resulted in a very poor share of development to the individual. According to 1991 cences, the population of India is 844.3 million and it is increasing by more than 17 million annually. Stabilization of the population at the replacement level is the over-riding national priority

In the world, countries like China, have taken drastic steps to control the birth rate. In India the Central Family Welfare Minister has also introduced a Bill in the Rajya Sabha so as to control the birth rate. In the scheme of Bill, it is suggested that, provisions of the Act shall come into force after a long time of one year, so that everybody can know the impact of the provisions of the Act and restrict the size of their family. The main purpose of the Bill is to create awareness in the minds of the people to restrict the size of their family. If this is not done, the scope for the new development is very meagre. For family welfare and individual development this Bill is proposed.

Gandhinagar,  
Dated : the 9th May, 1995.

DINSHA PATEL,  
M.L.A.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of Clause (1) empowers the State Government to specify the date on which the Act shall come into force.

Sub-clause (1) of clause (6) empowers the State Government to make rules for carrying out the purposes of this Act.

The delegation of Legislative powers as aforesaid is essential and of normal character.

Gandhinagar,  
Dated the 9th May, 1995.

DINSHA PATEL,  
M.L.A.

Gandhinagar,  
Dated the 22nd June, 1995.

N. K. KATHIRIA  
SECRETARY  
GUJARAT LEGISLATIVE ASSEMBLY.





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 may be filed as a separate compilation.

**PART V**

**Bill introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 22nd June, 1995 by Shri Becharbhai Bhadani, is published under rule 127-A of the Gujarat Legislative Assembly Rules of general information:—

**GUJARAT BILL NO. 15 OF 1995.**

**THE BOMBAY TENANCY AND AGRICULTURAL LANDS (GUJARAT AMENDMENT)  
 BILL, 1995**

*A BILL*

*further to amend the Bombay Tenancy and Agricultural Lands Act, 1948 in its  
 application to the State of Gujarat.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows:

1. (1) This Act may be called the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1995.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

2. In the Bombay Tenancy and Agricultural Lands Act, 1948, in section 43,—

(1) in sub-section (1) the words “and no such land or any interest therein shall be partitioned without the previous sanction of the Collector” shall be deleted.

(2) in sub-section (2), the words “or partition” shall be deleted.

Short  
title,  
extent and  
commence-  
ment.

Amend-  
ment of  
section 43  
of Bom.  
LXVII of  
1948.

Bom.  
LXVII  
of  
1948.

## STATEMENT OF OBJECTS AND REASONS

It has been observed that in case of partition, transfer of land is not permitted and entries are not certified under the existing provisions of the Bombay Tenancy and Agricultural Lands Act, 1948. On account of the said provisions in the statute book brothers cannot get right over the land which they are entitled to get as ancestral property. It is therefore, absolutely necessary to provide that in case of partition, there should not be any bar to the land being transferred in the name of the claimants of the hereditary right irrespective of the size of the land and hence this Bill.

Gandhinagar.

Dated the 3rd June, 1995.

BECHARBHAI BHADANI,  
M.L.A.

Gandhinagar,

Dated the 22nd June, 1995.

N. K. KATHIRIA,  
Secretary,  
Gujarat Legislative Assembly.



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**PART V****Bill Introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 22nd June, 1995 by Shri Becharbhai Bhadani, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

**GUJARAT BILL NO. 16 OF 1995.**

**THE BOMBAY PREVENTION OF FRAGMENTATION AND CONSOLIDATION  
 OF HOLDINGS (GUJARAT AMENDMENT) BILL, 1995.**

**A BILL**

*further to amend the Bombay Prevention of Fragmentation and Consolidation of Holdings  
 Act, 1947 in its application to the State of Gujarat*

It is hereby enacted in the Forty-sixth year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings (Gujarat Amendment) Act, 1995.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

2. In the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, in section 31—

(1) in sub-section (1), in clause (b), for the words "with the permission in writing of the Collector" the words "on the ground of providing share to the successor-in-interest" shall be substituted.

(2) in sub-section (2), in clause (a), the words "and does not create any fragment" shall be deleted.

Short  
title,  
extent &  
commen-  
cement.

Amend-  
ment of  
section 31  
of Bombay  
LXII of  
1947.

Bom.  
LXII of  
1947.

## STATEMENT OF OBJECTS AND REASONS

It is prohibited to transfer the land of any block as per provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. It is noticed that after the fixation of the block, the owner of the land in such block cannot transfer or sub-divide the land in favour of his successor-in-interest, without the permission of the Collector. During the passage of time it is noticed that the Collector neither gives such permission, for years together nor makes any entry in the records of land. In order to alleviate such hardship it is proposed to amend the said Act. The Bill, therefore, seeks to achieve the aforesaid object.

Gandhinagar,  
Dated the 3rd June, 1995.

BECHARBHAI BHADANI,  
M. L. A.

Gandhinagar,  
Dated the 22nd June, 1995.

N. K. KATHIRIA,  
Secretary,  
Gujarat Legislative Assembly.



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**PART V**

**Bill introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 29th June, 1995 by Dr. Chandrikaben Chudasama M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

Gujarat Bill No. 17 of 1995.

**THE GUJARAT ADVERTISEMENT (PROHIBITION OF FALSE AND MISLEADING REPRESENTATION) BILL, 1995.**

**A BILL**

*to prohibit false and misleading advertisements to promote sale of goods or articles in the State of Gujarat.*

It is hereby enacted in the Forty sixth year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Advertisement (Prohibition of false and misleading representation) Act, 1995.

Short  
title,  
extent and  
commen-  
cement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires, "representation" means and includes ;

Definitions:

(a) expression on an article offered or displayed for sale or its wrapper or container.

- (b) expression on a label accompanying an article offered or displayed for sale.
- (c) advertisement in news-papers or magazines.

**Prohibition on false representation.**

3. No person shall, directly or indirectly with a view to promote any business interest, sale of goods or articles,—

- (a) make a representation to the public which is false in material respect ;
- (b) make a representation to the public in the form of a statement or propaganda regarding quality of the article or goods offered for sale which cannot be tested but for which one has to rely only on the person making such representation ;
- (c) make a representation or promise to replace, maintain or repair an article, any part thereof or to continue service to achieve a specified result ;
- (d) make materially misleading representation to the public concerning the price at which a product or like products have been, are or will ordinarily be sold.

**Offence.**

4. Any action in contravention of the provisions contained in section 3, shall constitute a cognizable offence.

**Punishment.**

5. Any person found guilty of the offence under section 3 shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

**Rules.**

6. The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

**STATEMENT OF OBJECTS AND REASONS.**

There have been many cases of false and misleading advertisements to promote sale of goods or articles. It is estimated that about 50% of the space in leading magazines is used in advertisements. It is now high time that publication of advertisements and representations should be regulated so as to prevent false, misleading fraudulent advertisements and representations.

Gandhinagar,  
Dated the 8th June, 1995.

DR. CHANDRIKABEN CHUDASAMA,  
M.L.A.

**MEMORANDUM REGARDING DELEGATED LEGISLATION.]**

Clause 6 of the Bill empowers the State Government to make Rules for carrying out the purpose of this Act.

The proposed delegation of legislative power is necessary and is of normal character.

Gandhinagar,  
Dated the 8th June, 1995.

DR. CHANDRIKABEN CHUDASAMA,  
M.L.A.

Gandhinagar,  
Dated the 29th June, 1995.

N. K. KATHIRIA,  
Secretary,  
Gujarat Legislative Assembly.



सत्यमेव जयते

**The Gujarat Government Gazette**  
**EXTRAORDINARY**  
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Separate paging is given to this Part in order that it  
 may be filed as a separate compilation.

**PART V**

**Bill Introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 29th June, 1995 by Dr. Chandrikaben Chudasama M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

Gujarat Bill No. 18 of 1995

**THE GUJARAT NURSING HOMES AND CLINICAL ESTABLISHMENTS  
 (REGISTRATION AND LICENSING) BILL, 1995.**

*A BILL*

*to introduce a system of registration and licensing of nursing homes and clinical establishments in the State of Gujarat and for matters connected therewith.*

It is hereby enacted in the Forty sixth year of the Republic of India as follows:—

**CHAPTER—I**

**PRELIMINARY**

1. (1) This Act may be called the Gujarat Nursing Homes and Clinical Establishments (Registration and Licensing) Act, 1995.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date and in such area as the State Government may, by notification in the *Official Gazette* appoint and different dates may be appointed for different areas.

2. In this Act, unless the context otherwise requires,—

(a) “clinical establishment” means a medical laboratory, a physiotherapy establishment, a clinic or establishment analogous to any of them, by whatever name called;

Short  
title,  
extent  
and  
commence-  
ment.

Definitions



(b) "hospital" means any premises used for the reception of the sick ;

(c) "maternity home" means an establishment where women are usually received and accommodated for the purpose of confinement and antenatal and postnatal care in connection with child birth or anything connected therewith ;

(d) "medical laboratory" means an establishment where—

(i) biological, bacteriological, radiological, microscopic, chemical or other tests, examinations or analysis, or

(ii) the preparation of cultures, vaccines, sera or other biological or bacteriological products,

in connection with the diagnosis or treatment of diseases, are or is usually carried on ;

(e) "nursing home" means any establishment or premises used or intended to be used, for the reception and accommodation of persons suffering from any sickness, injury or infirmity whether of body or mind, and providing of treatment or nursing or both for them and includes a maternity home, but does not include—

(i) any hospital or other establishment or premises maintained or controlled by the Central or the State Government or any other authority or body constituted by or under any statute of a competent legislature ;

(ii) any asylum established or licensed under the Indian Lunacy Act, 1912.

4 of 1912.

(f) "physio-therapy establishment" means an establishment where massaging, electrotherapy, hydrotherapy, remedial gymnastics or similar processes are usually carried on, for the purpose of treatment, of disease or of infirmity or for improvement of health or for the purpose of relaxation or for any other purpose whatsoever, whether or not analogous to the purposes hereinbefore mentioned in this clause ;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "qualified medical practitioner" means a medical practitioner registered in any State in India under any law for the time being in force for the registration of medical practitioners ;

(i) "qualified midwife" means a midwife or an auxiliary nurse-midwife who possesses any of the qualifications included in section B or C as the case may be of part I of the Schedule to the Indian Nursing Council Act, 1947, and who is enrolled as a midwife or an auxiliary nurse-midwife in a State Register in India ;

48 of  
1947.

(j) "qualified nurse" means a person who possesses the qualifications included in Section A of Part I of the Schedule to the Indian Nursing Council Act, 1947, and who is enrolled as Nurse in a State Register in India ;

(k) "register" means a register kept under this Act and the expression "registered" and "registration" shall be construed accordingly ;

(l) "rules" means rules made under this Act ;

(m) "supervising authority" means the person or authority appointed by the State Government by notification in the Official Gazette to perform all or any of the functions of the supervising authority under this Act ;

## CHAPTER--II

## REGISTRATION AND LICENSING OF NURSING HOMES AND CLINICAL ESTABLISHMENTS.

3. No person shall open, keep or carry on a nursing home or clinical establishment without being registered in respect thereof and except under and in accordance with the terms of a licence granted therefor.

Nursing home or clinical establishment not to be opened, kept or carried on without registration and licence.

*Explanation:—*The expression "carry on a nursing home" means to receive persons in a nursing home for any of the purposes mentioned in clause (e) of section 2 and to provide treatment or nursing or both of them.

4. (1) Every person intending to open, keep or carry on a nursing home or a clinical establishment shall make every year an application for registration in respect of the nursing home or the clinical establishment and for the grant of a licence therefor, or for the renewal of the registration and the licence to the supervising authority :

Application for registration and licence.

Provided that nothing in this section or in section 3 shall apply in the case of a nursing home or a clinical establishment which is in existence in any area at the date of the commencement of this Act in that area for a period of three months from such date or if an application for registration and the grant of a licence is made within that period in accordance with sub section (2), until such application has been finally disposed of.

(2) Every application for registration in respect of a nursing home or a clinical establishment and for the grant of licence therefor or for the renewal of the registration and the licence shall contain such particulars and shall be accompanied by such fees, as may be prescribed.

(3) The supervising authority, if satisfied that the applicant and the nursing home or the clinical establishment as the case may be, fulfil such conditions as may be prescribed, shall register the applicant in respect of such nursing home or clinical establishment and shall grant it a licence therefor.

(4) The supervising authority may reject an application if he is satisfied—

(a) that the applicant, or any person employed by him at the nursing home or the clinical establishment, is not a fit person, whether by reason of age or otherwise, to carry on, or to be employed, at, the nursing home or the clinical establishment of such a description as the nursing home or clinical establishment named in the application ;

(b) that the applicant or the nursing home or the clinical establishment does not fulfill the conditions prescribed under sub-section (3) ; or

(c) that the real object of the applicant is to use, or allow the nursing home for clinical establishment to be used, for unsocial or immoral purposes or both ; or

(d) in the case of a nursing home other than a maternity home, that the nursing home is not or will not be under the charge of a qualified medical practitioner resident therein and that the nursing of persons received and accommodated therein is not or will not be under the superintendence of a qualified nurse resident therein :  
or

(e) in the case of a maternity home, that such maternity home is not or will not be under the charge of a qualified midwife and that the attendance on every woman before, at, or after child birth or on any child born is not or will not be under the superintendence of a qualified midwife resident therein ;

(f) that for reasons connected with the situation, construction, accommodation staffing or equipment, the nursing home or clinical establishment is not fit to be used for a nursing home or clinical establishment of such a description as the nursing home or the clinical establishment mentioned in the application.

and shall in every case, where the application is rejected, record the grounds for rejection.

(5) Every licence granted under sub-section (3) shall be upon such terms as may be prescribed and such terms, may, inter alia require —

(a) such precaution to be observed for safeguarding that the nursing home or the clinical establishment is not used for unsocial or immoral purposes or both ;

(b) such sanitary and hygienic measures to be taken and such accommodation to be provided, as may be specified by the supervising authority ;

(c) Such minimum equipment as may be specified by the supervising authority in this behalf ;

(d) in the case of nursing homes, records to be kept of persons received and accommodated and intimation to be given to specified authorities of births, deaths and mis-carriages therein, and such statistics shall be transmitted each month besides an annual report to the Central Government in the Ministry of Health and to other authorities as may be prescribed ;

(e) in the case of clinical establishment, records to be kept of persons investigated or treated therein, and such statistics shall be forwarded each month to the State Government and to the Central Government in the Ministry of Health in duplicate.

(6) A certificate of registration and a licence issued under this section shall, subject to the provisions of section 5, be in force and shall be valid until the 31st day of March next following the date on which such certificate was issued.

(7) A certificate of registration issued in respect of nursing home or a clinical establishment shall be kept affixed in a conspicuous place in the nursing home or the clinical establishment, as the case may be.

**Cancellation of registration and licence.**

5. If at any time after any person has been registered in respect of any nursing home or clinical establishment and granted a licence therefor, the supervising authority is satisfied;

(i) that the terms of the licence are not being complied with ; or

(ii) that any of the grounds which would have entitled him to refuse the application for registration or licence, exist ; or

(iii) that the person registered and licensed, has been convicted of an offence punishable under this Act ; or

(iv) that any other person who has been convicted of an offence under this Act is materially interested in the nursing home or the clinical establishment;

he may cancel such registration and licence.

6. (1) Before making an order refusing an application for registration and licence in respect of a nursing home or a clinical establishment or an order cancelling any registration and licence in respect thereof, the supervising authority shall give to the applicant or to the person registered and licensed not less than one calendar month's notice of its intention to make such an order, and every such notice shall state the ground on which the supervising authority intends to make the order and shall contain an intimation to the effect that if within a calendar month of the receipt of the notice the applicant or the person registered informs the authority in writing that he desires so to do, the supervising authority shall, before making the order give him an opportunity of showing cause (in person or by representative) why the order should not be made.

Notice of refusal or cancellation of registration.

(2) If the supervising authority after giving the applicant or the person registered an opportunity of showing cause as aforesaid, decides to refuse the application for registration and licence or to cancel the registration and the licence, as the case may be, it shall make an order to that effect and shall send a copy of the order by registered post to the applicant or the person registered.

(3) Any person aggrieved by an order refusing an application for registration and licence or cancelling any registration and licence may within a period of a calendar month after the date on which the copy of the order was received by him, appeal to the State Government against such order or refusal. The decision of the State Government on any such appeal shall be final and shall not be questioned in any court.

7. (1) Subject to such regulations as may be prescribed, any officer of the State Government authorised by the State Government in this behalf, may—

Inspection of Nursing Home and Clinical Establishments.

(a) enter at any time by night or by day with or without notice, any place or establishment which he has reason to believe that it is being used as a nursing home or a clinical establishment;

(b) make such examination of the place or establishment and inspect any equipments, articles or documents found therein and seize and take out therefrom any such equipment, articles or documents, as he deems necessary for the purpose of examination, analysis, investigation, or evidence and retain them as long as he thinks it necessary to do so for such purposes;

(c) make such inquiries, and put such questions to any person found in such place or establishment, as he deems necessary in order to ascertain whether the place or the establishment is being used as a nursing home or clinical establishment or not.

(2) No person shall obstruct officer authorised under sub-section (1) in the exercise of any power conferred by that sub-section or make any false or reckless statement in answer to a question put by such officer in exercise of the powers conferred on him under clause (c) of that sub-section.

### CHAPTER-III

#### PENALTIES

8. (1) Any person—

(a) who contravenes the provisions of section 3, or—

(b) who contravenes the provisions of sub-section (2) of section 7, or

(c) who being the holder of a licence granted under this Act in respect of any nursing home or clinical establishment, uses or allows such nursing home or clinical establishment to be used for unsocial or immoral purposes or both.

Penalties for offences under the Act.

shall be guilty of an offence and shall—

(i) on conviction for a first offence be punishable with fine which may extend to five hundred rupees and

(ii) on conviction for a second or subsequent offence be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both and shall in addition be liable to fine which extend to twenty five rupees for every day for which the offence continues after conviction.

Offences  
by  
Corpora-  
tions.

9. Where a person committing an offence under this Act is a company or other body corporate or an association of persons (whether incorporated or not) every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall unless he proves that the offence was committed without his knowledge be deemed to be guilty of such offence.

Penalty  
for  
serving in  
an unlicen-  
sed and  
unregi-  
stered  
nursing  
home or  
clinical  
establish-  
ment.

10. Any person who knowingly serves in a nursing home or clinical establishment which is not duly registered and licensed under this Act or which is used for unsocial or immoral purposes shall be guilty of an offence and shall be punishable with fine which may extend to five hundred rupees.

#### CHAPTER-IV

##### MISCELLANEOUS

Offences  
under the  
Act to be  
cognizable.

11. All offences under this Act shall be cognizable.

Courts  
competent  
to try  
offences  
under  
this  
Act.

12. Notwithstanding anything contained in the Code of Criminal Procedure 1973, no court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try an offence punishable under this Act.

5 of  
1973.

Protection  
of action  
taken in  
good  
faith.

13. (1) No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act or any rules made thereunder.

(2) No suit or other legal proceeding shall lie against Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

Credit of  
fees and  
fines.

14. Any fees received or fines paid under this Act shall be credited to the Consolidated Fund of the State.



15. All expenses incurred by the supervising authority under and for the purpose of this Act and the rules made thereunder shall be paid out of the Consolidated Fund of the State.

Expenses  
of  
supervis-  
ing  
authority

16. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out all or any of the purposes of this Act.

Power to  
make  
rules.

(2) Without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(a) the form of the application to be made under section 4 the date on which such application is to be made and the fees to be paid for such registration or renewal of registration.

(b) the authority to whom an application under sub-section (2) of section 4 shall be made and the particulars which such application shall contain and the fee with which such application shall be accompanied ;

(c) the conditions which an applicant and a nursing home or a clinical establishment shall fulfil under sub-section (3) of section 4 ;

(d) the fees to be paid for an appeal under sub-section (3) of section 6 and the procedure of such appeal ;

(e) the form of the register to be maintained under this Act ;

(f) the form and the terms of the licence to be issued under section 4 ;

(g) the records to be kept of the patients received in a nursing home and in the case of the maternity home, of miscarriage, abortions or still-births occurring in the nursing home and of the children born therein and of the children so born who are removed from the nursing home otherwise than to the custody or care of any parent, guardian or relative ;

(h) the notification required to be given of any death occurring in the nursing home;

(i) the conditions regarding accommodation, sanitary and other facilities and minimum equipments;

(j) the regulations subject to which an officer authorised under sub-section (1) of section 7 may exercise his powers under that sub-section;

(k) any other matter which has to be, or may be, prescribed.

(3) The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette.

(4) All rules made under this Act by the State Government shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

## STATEMENT OF OBJECTS AND REASONS

Certain nursing homes and clinical establishments are carried out by private individuals without having qualified medical practitioners or qualified staff, essential medical equipments and adequate facilities of accommodation, sanitation and without hygienic conditions which directly causes irreparable damage to and loss of precious human lives. Besides, the nursing home and clinical establishments do not keep and provide to the Government records regarding births-deaths, mis-carriages, abortions and cases and treatment given for different diseases. The Govt. therefore, lacks correct and complete data in this regard. It is, therefore, intended to provide for registration, licensing and inspection of nursing homes and clinical establishments in the State of Gujarat for the betterment of public health.

The Bill seeks to achieve the aforesaid objects.

Gandhinagar,

Dated the 8th June, 1995.

DR. CHANDRIKABEN CHUDASAMA,

M. L. A.

## FINANCIAL MEMORANDUM

Clause 15 of the Bill provides for expenses of supervising authority. The provisions of the Bill is estimated to involve a recurring expenditure of Rs. 5 lacs from the Consolidated Fund of the State.

Gandhinagar,

Dated the 8th June, 1995.

DR. CHANDRIKABEN CHUDASAMA,

M. L. A.



## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (m) of clause 2 of the Bill empowers the State Government to appoint a person or authority to perform functions of the supervising authority.

Sub-clause (3) of clause 1 empowers the State Government to determine the areas to which the provisions of this Act shall apply and to appoint date or dates for all or any of the areas for the commencement of this Act.

Sub-clause (2) of clause 4 empowers the State Government to prescribe particulars of an application for registrations, grants of licence and renewal of the registration shall contain and the fees that shall be accompanied.

Sub-clause (3) of clause 4 empowers the State Government to prescribe conditions to be fulfilled for registration of nursing home or clinical establishment.

Sub-clause (5) of clause 4 empowers the State Government to prescribe terms upon which licence shall be granted under sub-clause (3).

Paragraph (d) of sub-clause (5) of clause 4 empowers the State Government to prescribe authorities other than the Central Government for transmission of certain information and an annual reports.

Sub-clause (1) of clause 7 empowers the State Government to prescribe regulations for inspection of nursing homes and clinical establishments.

Clause 16 of the Bill empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Gandhinagar,  
Dated the 8th June, 1995.

DR. CHANDRIKABEN CHUDASAMA,  
M. L. A.

Gandhinagar,  
Date the 29th June, 1995.

N. K. KATHIRIA,  
Secretary,  
Gujarat Legislative Assembly.

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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 13th July, 1995 by Dr. Chandrikaben Chudasama, M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :-

**" GUJARAT BILL NO. 19 OF 1995.**

**THE GUJARAT CHILDREN BILL, 1995.**

*A BILL*

*to consolidate and amend the law relating to the custody, protection, treatment and rehabilitation of neglected children and for the trial of children who have committed any offence.*

It is hereby enacted in the Forty Sixth Year of the Republic of India as follows :-

**PART I**

**PRELIMINARY**

1. (1) This Act may be called the Gujarat Children Act, 1995
- (2) It extends to the whole of the State of Gujarat.
- (3) This section shall come into force at once and the remaining provisions of the Act shall come into force on such date as the State Government may, by notification in the *Official Gazette*, specify and different dates may, be specified in respect of different provisions of the Act and different areas of the State.

Short title,  
extent and  
commence-  
ment.

Saving.

2. The State Government may, by notification in the *Official Gazette*, direct that all or any of the provisions of this Act shall not apply to any class of children in the whole of the State or in any particular area thereof.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "adult" means a person who is not a child;

(b) "begging" means begging as defined in the Bombay Prevention of Begging Act, 1959;

Bom.  
X of  
1960.

(c) "brothel", "prostitute", "prostitution" and "public place" shall have the meanings respectively assigned to them in the Suppression of Immoral Traffic in Women and Girls Act, 1956;

104 of  
1956.

(d) "certified school" means an industrial school established or any other school or institution certified by the State Government under section 22;

(e) "Chief Inspector" means the Chief Inspector of certified schools appointed under section 35;

(f) "child" means a boy or a girl who has not completed the age of sixteen years;

(g) "dangerous drug" means any article defined as "dangerous drug" in the Dangerous Drugs Act, 1930;

2 of  
1930.

(h) "Director of Social Defence" means a person appointed as the Director of Social Defence by the State Government;

(i) "final order" means an order passed by a Juvenile Court or any other court exercising the powers of a Juvenile Court, under any of the following sections, namely:—

40, 41, 42, 46, 71, 73, 76 79, 81, 82, 92 and 93;

(j) "fit person" includes a fit person institution which in relation to the care of any child means any association or body of individuals whether incorporated or not established for or having for its object the reception or protection of children or the prevention of cruelty to children and which undertakes to bring up or to give facilities for bringing up any child entrusted to its care in conformity with the religion of its birth;

(k) "guardian" in relation to a child, includes any person, who in the opinion of the Juvenile Court having cognizance of any proceeding in relation to a child, has, for the time being, the actual charge of, or control over, that child;

(l) "immoral behaviour" includes any act or conduct which is indecent or obscene;

(m) "Inspector" and "Assistant Inspector" means respectively the Inspector of certified schools and Assistant Inspector of certified schools appointed under section 35;

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(n) "Juvenile Court" means a court established under section 6 and where no such court has been established, the court of the Magistrate empowered under sub-section (2) of section 7 to exercise the powers conferred by or under this Act on a Juvenile Court;

(o) "magistrate of the first class" in relation to the metropolitan area means a metropolitan magistrate appointed for that area;

(p) "neglected child" means a child who—

(i) is found without having any home or settled place of abode, or any ostensible means of subsistence, or is found begging or is found doing for a consideration any act under circumstances contrary to the well being of the child or is found destitute whether he is an orphan or not; or

(ii) has a parent or guardian who is unfit to exercise or incapable of exercising or does not exercise proper care and control over the child; or

(iii) is found living in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution or is found to associate with any prostitute or any other person who leads an immoral, drunken or depraved life; or

(iv) is otherwise found living under such circumstances that he is likely to fall into bad association or to be exposed to moral danger or to enter upon a life of crime;

(q) "observation home" means any institution or place established or recognised as an observation home under section 23;

(r) "offence" means an offence punishable under any law for the time being in force;

(s) "place of safety" includes an observation home or any other suitable place or institution, the occupier or manager of which is willing temporarily to receive a child or where such observation home or other suitable place or institution is not available, then in the case of a male child only, a police station in which arrangements are available or can be made for keeping children in custody separately from other offenders;

(t) "prescribed" means prescribed by rules made under this Act;

(u) "probation of good conduct" means the release of a child who is convicted under this Act for an offence on probation of good conduct on his personal recognizance and the expression "Probation of Good Conduct Order" shall be construed accordingly;

(v) "Probation Officer" means any person appointed as a Probation Officer under this Act;

(w) "society" means a body or association of individuals, registered under the Societies Registration Act, 1860 or the Bombay Public Trusts Act, 1950;

(x) "supervision" in relation to a child placed under the care of any parent, guardian or other fit person under this Act means supervision of that child by a Probation Officer for the purpose of ensuring that the child is properly looked after and that the conditions imposed by the Juvenile Court are complied with, and the expression "Supervision order" shall be construed accordingly;

(y) "voluntary home" means any place for the reception of children maintained wholly or partly by voluntary contributions;

(z) all words and expressions used and not defined in this Act but defined in the Code of Criminal Procedure, 1973, shall have the meaning assigned to them in that Code. 2 of 1974.

Constitution of proceedings against child on his ceasing to be child.

4. For the purposes of this Act, a person shall be deemed to be a child, if at the time of initiation of any proceedings against him under this Act, or at the time of his arrest in connection with which any proceedings are initiated against him under this Act, such person has not attained the age as specified in clause (f) of section 3.

Provided that if during the course of the proceedings under this Act such person attains the age specified in the said clause, the proceedings already commenced shall be continued and orders may be passed in respect of such person under this Act as if such person was a child notwithstanding anything to the contrary in this Act.

Reformatory Schools Act, 1897 and certain provisions of Code of Criminal Procedure 1973 not to apply.

5. The provisions of the Reformatory Schools Act, 1897 and of section 27 of the Code of Criminal Procedure, 1973, shall cease to apply to any area in which Parts II to XI of this Act have been brought into operation. VII. of 1897. 2 of 1974.

## PART II.

### JUVENILE COURT.

Juvenile Courts.

6. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the State Government may, by notification in the *Official Gazette*, establish for any area specified in the notification one or more Juvenile Courts for exercising the powers and discharging the duties conferred or imposed on such court in relation to children under this Act. 2 of 1974.

(2) Every such court shall be presided over by a Magistrate of the First Class who shall be appointed by the High Court. Every such court shall be assisted by a panel of two honorary social workers possessing such qualifications as may be prescribed, of whom at least one shall be a woman, and such panel shall be appointed by the State Government.

Powers of Juvenile Court.

7. (1) Where a Juvenile Court has been established for any area, such Court shall, notwithstanding anything contained in any other law for the time being in force, but save as otherwise expressly provided in this Act, have

power to deal exclusively with all proceedings under this Act relating to children, but shall not have power to try any case in which an adult is charged with an offence under Part-VII of this Act.

(2) Where no Juvenile Court has been established for any area, the powers conferred on the Juvenile Court by or under this Act shall be exercised in that area, only by a Magistrate exercising the powers of a Magistrate of the First Class.

(3) The powers conferred on a Juvenile Court by or under this Act shall, subject to the provisions thereof, also be exercisable by the High Court and the Court of Session, when trying any case originally or on appeal or revision.

8. (1) Where any Magistrate not empowered to exercise the powers of a Juvenile Court under this Act is of opinion that a person brought before him under any of the provisions of this Act (otherwise than for the purpose of giving evidence) is a child, he shall record such opinion and forward the child and the record of the proceedings to the Juvenile Court having jurisdiction over the proceedings.

Procedure to be followed by the Magistrate not empowered under the Act.

(2) The Juvenile Court to which the proceeding is forwarded under sub-section (1) shall hold the inquiry as if the child had originally been brought before it.

2 of 1974.

9. (1) Notwithstanding anything contained in section 223 of the Code of Criminal Procedure, 1973, or any other law for the time being in force, no child shall be charged with or tried for any offence together with an adult, if a Juvenile Court has been established for the area where the trial of such case is to take place.

No joint trial of child and adult in area where Juvenile Court exists.

(2) If a child is accused of an offence for which under section 223 of the Code of Criminal Procedure, 1973, or any other law for the time being in force, such child and an adult could, but for the provisions of sub-section (1) have been tried together, the court taking cognizance of the offence shall direct separate trial of the child and the adult. If a Juvenile Court has been established for the local area the child shall be tried by the Juvenile Court and the adult shall be tried separately by a court having jurisdiction to try the offence.

2 of 1974.

10. A Juvenile Court shall, as far as practicable and subject to the provisions of this Act, follow the procedure provided by the Code of Criminal Procedure, 1973 for summary trials in summons cases in which an appeal lies.

Procedure appealable in summons cases to be followed by the Juvenile Court in the trials of children.

11. (1) A Juvenile Court shall hold its sittings at such place, and on such day and in such manner, as may be prescribed.

Sitting etc. of Juvenile Courts.

(2) A Magistrate empowered to exercise the powers of a Juvenile Court under sub-section (2) of section 8 shall, while holding any inquiry regarding a child under this Act, as far as practicable, sit in a building or room different



from that in which the ordinary sittings of civil and criminal courts are held, or on different days or at different times from those at which the ordinary sittings of such courts are held.

**Presence of persons in the sittings of Juvenile Court.** 12. Save as provided in this Act, no person shall be present at any sitting of a Juvenile Court except—

(a) the parties to the case before the Juvenile Court and other persons directly concerned in the case including the Police Officers, and legal practitioners; and

(b) such other persons as the Juvenile Court specially authorises to be present.

**Withdrawal of persons from Juvenile Court.** 13. If at any stage during the course of the trial of a case or a proceeding, a Juvenile Court considers it expedient in the interest of the child to direct any person including the parent, guardian or the spouse of the child or the child himself to withdraw, the Juvenile Court shall be entitled to give such direction and thereupon such person shall withdraw. If any person refuses to withdraw, the Juvenile Court may take steps to remove him.

**Dispensing with attendance of child.** 14. If at any stage during the course of the trial of a case or a proceeding, the Juvenile Court is satisfied that the attendance of a child is not essential for the purposes of the hearing of the case or proceeding, the Juvenile Court may dispense with his attendance and proceed with the trial of the case in the absence of the child.

**Withdrawal of persons from Court when child examined as witness.** 15. If at any stage during the course of the trial of a case or a proceeding in relation to an offence against, or any conduct contrary to, decency or morality, a child is summoned as witness, any court trying the case or holding the proceeding may direct such persons as it thinks fit, not parties to the case or proceedings, their legal advisors and officers concerned with the case or proceeding to withdraw. Such persons shall then withdraw. If any person refuses to withdraw, the Court may take steps to remove him.

**Attendance of parent or guardian of child.** 16. (1) Where a child brought before a Juvenile Court under this Act has a parent or guardian, such parent or guardian may in any case, and shall, if he can be found and if he resides within a reasonable distance, be required to be present at any proceeding held in respect of such child under this Act, unless the Juvenile Court is satisfied that it will be unreasonable to require his attendance.

(2) The parent or guardian, whose attendance shall be required under this section, shall be the parent or guardian having the actual charge of, or control over, the child :

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(3) The attendance of the parent of a child shall not be required under this section in any case where the child was, before the institution of proceedings, removed from the custody or charge of his parent by an order of a court.



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17. (1) When a child who has been brought before a Juvenile Court under any of the provisions of this Act, is found to be suffering from a disease requiring prolonged medical treatment or from a physical or mental complaint that will respond to treatment, the Juvenile Court may send the child to an observation home or to any other place recognized to be an approved place for the purpose of this section in accordance with the rules made under this Act for such period as it may think necessary for the required treatment.

Committal to approved place of child suffering from dangerous disease.

III of 1898.

(2) Where a child is found to be suffering from leprosy or is of unsound mind, he shall be dealt with under the provisions of the Lepers Act, 1898, or the Indian Lunacy Act, 1912, as the case may be.

IV of 1912.

(3) Where a Juvenile Court has taken action under sub-section (1) in the case of a child suffering from an infectious or contagious disease, the Juvenile Court before restoring the said child to his partner in marriage, if there has been such, or to the guardian, as the case may be, shall, where it is satisfied that such action will be in the interest of the said child, call upon his partner in marriage or the guardian as the case may be, to satisfy the Juvenile Court by submitting to medical examination that such partner or guardian will not re-infect the child in respect of whom the order has been passed.

18. For the purpose of any order which a Juvenile Court has to pass under this Act the Juvenile Court shall have regard to the following factors:—

Facts to be taken into consideration in passing orders by Juvenile Court.

(a) the character and age of the child.

(b) the circumstances under which the child is living;

(c) the reports made by the Probation Officer ;

(d) the religious persuasion of the child ;

(e) such other factors as may, in the opinion of the Juvenile Court require to be taken into consideration in the interests of the child ;

Provided that where a child is found to have committed an offence, the above factors shall be taken into consideration after the Juvenile Court has recorded a finding against the child that he has committed the offence :

Provided further that if no report of the Probation Officer is received within ten weeks of his being informed under section 44 it shall be open to the Juvenile Court to proceed without it.

19. The report of the Probation Officer or any other report considered by the Juvenile Court under section 18 shall be treated as confidential :

Report of Probation Officer and other reports to be treated confidential.

Provided that if such report relates to the character, health or conduct of, or the circumstances in which, the child or parent is living the Juvenile Court may, if it thinks expedient, communicate the substance thereof to the child or parent concerned, as the case may be, and may give the child or parent an opportunity to produce evidence as may be relevant to the matters stated in the report.

**Prohibition on publication of names, addresses etc. of children involved in cases or proceedings under the Act.** 20. No report in any newspapers, magazine or news-sheet of any case, inquiry, investigation or proceeding before any Juvenile Court under this Act in which a child is involved shall disclose the name, address or school of such child or include any particulars calculated to lead to the identification of any such child, nor shall any picture be published as being or including a picture of any such child :

Provided that for reasons to be recorded in writing, the Juvenile Court trying the case or holding the proceeding may permit such disclosure if in its opinion such disclosure is in the interest of child welfare and is not likely to affect adversely the interests of the child concerned.

**Provisions of Criminal Procedure Code, 1973 to apply to trial of cases and conduct of proceedings under the Act unless excluded.** 21. Except as expressly provided under this Act or the rules made thereunder, the procedure to be followed in the trial of cases and the conduct of proceedings under this Act shall be in accordance with the provisions of the Code of Criminal Procedure, 1973.

2 of 1974.

## PART III

## CERTIFIED SCHOOLS, OBSERVATION HOMES, AFTER CARE ORGANISATION AND VOLUNTARY HOMES.

**Establishment and certification of schools.** 22. (1) The State Government may establish and maintain as many industrial schools as may be necessary for the reception of neglected children and of children who have been found to have committed an offence.

(2) Where the State Government is of opinion that any industrial school not established under sub-section (1) or any other educational institution is fit for the reception of children who have been found to have committed an offence, it may certify such school or institution as a certified school for the purposes of this Act.

**Establishment or recognition of places as observation homes.** 23. (1) The State Government may establish and maintain as many observation homes as may be necessary for the temporary reception of children during the pendency of any inquiry regarding them under this Act.

(2) Where the State Government is of opinion that any institution other than an institution established under sub-section (1) is fit for the temporary reception of children during the pendency of any inquiry regarding them under this Act, it may recognise such institution as an observation home for the purposes of this Act.

**After Care Organisations.** 24. (1) The State Government may by rules made under this Act provide for the establishment or recognition of After Care Organisations and may invest them with such powers as may be necessary for effectively carrying out their functions under this Act.

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(2) Every such organisation shall take care of children when they leave observation homes or certified schools and shall for the purpose of enabling them to lead an honest, industrious and useful life, take all such measures as it may deem necessary or as may be prescribed.

25. For the control and management of every industrial school established under sub-section (1) of section 22, a Superintendent and a Committee of Visitors shall be appointed by the State Government and such Superintendent and Committee shall be deemed to be the managers of the school for the purposes of this Act.

Management of certified schools established by Government.

26. Every school or institution certified under sub-section (2) of section 22 shall be under the management of a governing body, the members of which shall be deemed to be the managers of the school or the institution, as the case may be, for the purposes of this Act.

Management of certified schools certified as such by Government.

27. (1) The managers of a certified school whether established, certified or recognised by the State Government shall be consulted by the Juvenile Court before any child is committed to it.

Liabilities of managers.

(2) The managers of a certified school certified by the State Government may, for reasons to be given in writing, decline to receive any child committed to it under this Act:

Provided that when such school has once accepted any child, it shall be bound to protect, teach, train, lodge, clothe and feed him during the whole period for which he is liable to be detained in the school or until the withdrawal or resignation of the certificate of the school.

28. Any registered medical practitioner empowered in this behalf by the State Government may visit any certified school at any time with or without notice to its managers in order to report to the Chief Inspector on the health of the inmates and sanitary conditions of such school.

Medical inspection of certified schools.

29. (1) The State Government, if dissatisfied with the conditions, rules, management, or superintendence of a certified school, may at any time by notice served on the manager or the school declare that the certificate of the school is withdrawn as from a date specified in the notice and on such declaration the withdrawal of the certificate shall take effect and the school shall cease to be a certified school.

Powers of State Government to withdraw certificate or recognition

(2) The State Government may instead of withdrawing a certificate by notice served on the manager of the school prohibit admission of children to the school for such time as may be specified in the notice or until the notice is revoked:

Provided that before the issue of a notice under sub-section (1) or (2), a reasonable opportunity shall be given to the manager of the certified school, to show cause why the certificate may not be withdrawn or as the case may be, admission to the school may not be prohibited.

Resignation  
of  
certificate  
or recognition  
by managers.

30. The manager of a certified school may, on giving six months' notice in writing to the State Government, through the Chief Inspector, of their intention so to do, resign the certificate of the school and accordingly at the expiration of six months from the date of such notice, unless before that time the notice is withdrawn, the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

Effect of  
withdrawal  
or  
resignation  
of  
certificate.

31. A child shall not be received into a certified school under this Act after the date of receipt by the manager of the school of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate:

Provided that the obligation of the manager to protect, teach, train, lodge, clothe and feed any child detained in the school at the respective dates aforesaid shall, except so far as the State Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

Manner  
of dealing  
with  
inmates on  
withdrawal  
or  
resignation  
of  
certificate.

32. When a certified school ceases to be a certified school the children detained therein shall be either discharged absolutely or on such conditions as the State Government may impose or transferred by order of the Chief Inspector to some other certified school in accordance with the provisions of this Act relating to discharge and transfer.

Inspection  
of  
voluntary  
homes.

33. (1) The State Government may cause any voluntary home to be visited and inspected from time to time at all reasonable hours by the Chief Inspector or any member of the inspecting staff for the purpose of securing the health and welfare of the children and the sanitation of the premises.

(2) The Chief Inspector or any member of the inspecting staff shall have power to enter a voluntary home at all reasonable hours and to make a complete inspection thereof and of all registers relating thereto for the aforesaid purposes.

(3) Where any voluntary home is for reception of girls, the inspection shall, where practicable, be conducted by a woman authorised or appointed by the Chief Inspector or the Director of Social Defence.

(4) If the State Government is satisfied that the management of any voluntary home or the accommodation for, or the treatment of, the children therein is unsatisfactory, it may cause to be served upon the person responsible for the management of the voluntary home such general or specific directions with respect to all or any of the matters aforesaid, as it thinks expedient for the welfare of the children in such home.

(5) A direction under the foregoing sub-section may be varied by a subsequent direction or withdrawn by the State Government.

(6) Where any such direction is not complied with, the District Magistrate may, on the complaint of any person appointed for the purpose by the State Government, cause a summons to be served upon the person in-charge of the voluntary home and upon such other person as he may think fit, and upon hearing the person summoned, may if he thinks fit, make an order for the removal of all children from the voluntary home.

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(7) The District Magistrate, may, if he thinks fit, order that the direction shall be deemed to be modified to such extent as may be specified in such order and the direction shall have effect accordingly.

(8) Any order for the removal of all children from such voluntary home shall operate as an authority to any person named in the order and to any police officer not below the rank of an Inspector to enter the voluntary home and to remove the children therein to a place of safety.

(9) Where an order has been made for the removal of all the children from such voluntary home, the home shall not be used for the reception of children without the consent of the State Government.

34. (1) Every certified school shall be liable to inspection at all times and in all its departments by the Director of Social Defence, the Assistant Director of Social Defence, Chief Inspector, Inspector or Assistant Inspector of certified schools or such other officer specially authorised by the Director of Social Defence and shall be so inspected at least once in a year.

Inspection  
of  
certified  
schools.

(2) The Director of Social Defence, the Assistant Director of Social Defence, the Chief Inspector, Inspector or Assistant Inspector or such other officials as may be approved by State Government shall have a right to visit and inspect any institution recognised under this Act at any time:

Provided that where any such certified school is for the reception of girls mainly and such inspection or visit is not made or paid by the Director of Social Defence or the Chief Inspector, the visitor or Inspector shall, wherever practicable be a woman.

## PART IV

### OFFICERS, THEIR POWERS AND DUTIES

35. (1) Besides the Director of Social Defence, the State Government for the purpose of this Act appoint the following officers:—

Appointment  
of  
Officers.

(a) The Chief Inspector of Certified Schools.

(b) Assistant Director of Social Defence, Inspectors and Assistant Inspectors of Certified Schools.

(c) Probation Officers.

(d) Such other officers with such designations as may be necessary.

(2) Any society recognised in this behalf by the State Government may also appoint a Probation Officer, subject to the approval of the Director of Social Defence.

(3) Notwithstanding anything contained in sub-section (1) or (2) a Juvenile Court may, for the purpose of any particular case or proceeding, appoint any other person as a Probation Officer, if in its opinion such appointment is expedient or necessary.



Supervision  
and  
control of  
Probation  
Officer.

36. (1) A Probation Officer in the performance of his duties under this Act shall be an Officer of the Juvenile Court and shall act under the supervision and guidance of the Juvenile Court.

(2) Nothing in this section shall derogate from the powers of supervision of the District Magistrate, the Director of Social Defence or the Chief Inspector.

Powers  
and  
duties of  
Probation  
Officers  
and  
Inspectors.

37. The powers and duties of the Chief Inspector, Assistant Director of Social Defence, Inspectors, Assistant Inspectors and Probation Officers and such other officers as may be appointed by the State Government under sub-section (1) of section 35 shall be as those provided under the provisions of this Act and the rules made thereunder and in accordance with the general or special orders which the State Government or the Director of Social Defence or any officer authorised by him in this behalf may make for the purpose of carrying out the provisions of this Act.

## PART V

### NEGLECTED CHILDREN.

Production of  
neglected  
children  
before  
Juvenile  
Court.

38. (1) If in respect of any child any police officer or any other person authorised in this behalf in accordance with the rules made under this Act by the State Government (hereinafter referred to as the authorised person) is of opinion that the child is apparently a neglected child such police officer or such authorised person may take charge of that child for bringing him before a Juvenile Court.

(2) When information is given to an officer-in-charge of a police station about any neglected child found within the limits of such station, he shall enter in a book to be kept for the purpose the substance of such information and take such action thereon as he deems fit and if such officer does not propose to take charge of the child, he shall forward a copy of the entry made to Juvenile Court.

(3) Every child taken charge of under sub-section (1) shall be brought before the Juvenile Court within a period of twenty four hours of taking charge of the child excluding the time necessary for the journey from the place where the child had been taken charge of to the Juvenile Court.

(4) Every child taken charge of under sub-section (1) shall, unless he is kept with his parent or guardian, be sent to an observation home (but not to a police station or jail) until he can be brought before a Juvenile Court.

Special  
procedure  
to be  
followed  
when a  
neglected  
child  
has  
parent.

39. (1) If a child who in the opinion of the police officer or the authorised person is a neglected child, has a parent or guardian, who has the actual charge of, or control over, the child, the police officer or the authorised person may, instead of taking charge of the child make a report to the Juvenile Court for initiating an inquiry regarding that child.

(2) On receipt of a report under sub-section (1) the Juvenile Court may call upon the parent or guardian to produce the child before it and to show cause why the child should not be dealt with as a neglected child

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under the provisions of this Act, and if it appears to the Juvenile Court that the child is likely to be removed from its jurisdiction or to be concealed, it may immediately order his removal, if necessary by issue of a search warrant for the immediate production of the child to an observation home.

40. (1) When a child alleged to be neglected child is produced before a Juvenile Court, the Court shall examine the police officer or the authorised person who brought the child or made the report and record the substance of such examination and hold the inquiry in the prescribed manner and make such orders in relation to the child as it may deem fit.

Inquiry  
by  
Juvenile  
Court  
regarding  
neglected  
children.

(2) Where a Juvenile Court is satisfied on an inquiry that the child is a neglected child and that it is expedient so to deal with him, the Juvenile Court may make an order directing the child to be sent to an observation home or to a certified school to be placed under the care of a fit person for the period until such child completes the age of twenty one years :

Provided that the Juvenile Court may, if it is satisfied that having regard to the circumstance of the case it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit.

(3) During the pendency of any inquiry regarding a child, the child shall, unless he is kept with his parent or guardian be sent to an observation home for such period as may be specified in the order of the Juvenile Court :

Provided that no child shall be kept with his parent or guardian, if, in the opinion of the Juvenile Court such parent or guardian is unfit to exercise or does not exercise proper care and control over the child.

41. (1) If the Juvenile Court so thinks fit, it may, instead of making an order under sub-section (2) of section 40 for sending a child to an observation home, or a certified school, make an order placing the child under the care of a parent, guardian or other person, on such parent, guardian or person executing a bond with or without surety to be responsible for the good behaviour and well being of the child and for the observance of such conditions as the Juvenile Court may think fit to impose.

Powers to  
commit  
neglected  
child to  
suitable  
custody.

(2) At the time of making an order under sub-section (1) or at any time subsequently, the Juvenile Court may, in addition, make an order that the child be placed under supervision for any period not exceeding three years in the first instance.

(3) Notwithstanding anything contained in sub-sections (1) and (2) if at any time it appears to the Juvenile Court, on receiving a report from the Probation Officer or otherwise, that there has been a breach of any of the conditions imposed by it in respect of the child, it may, after making such inquiry as it deems fit, order the child to be sent to observation home, certified school or fit person institution.

(4) In the case of a child whose ordinary place of residence lies outside the jurisdiction of the Juvenile Court before which he is brought, the Court



may, if it is satisfied after due inquiry that it is expedient so to do, send the child back to a relative or a person who is fit and willing to receive him at his ordinary place of residence and exercise proper care and control over him.

Uncontro-  
lable  
children.

42. Where a parent or guardian of a child complains to the Juvenile Court that he is not able to exercise proper care and control over the child and the Juvenile Court is satisfied on inquiry that proceedings under this Act, should be initiated regarding the child, it may send the child to an observation home and make such further inquiry as it may deem fit and the provisions of sections 40 and 41 shall, as far as may be apply to such proceedings.

#### PART VI

#### CHILD OFFENDERS.

Bail and  
custody of  
children.

43. (1) When any person accused of a bailable or non-bailable offence and apparently a child is arrested or detained or appears or is brought before a Juvenile Court, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973, or in any other law for the time being in force, be released on bail with or without surety but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any reputed criminal or expose him to moral danger or that his release would defeat the ends of justice.

2 of  
1974.

(2) When such person having been arrested is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause him to be kept in an observation home in the prescribed manner (but not in a police station or jail) until he can be brought before a Juvenile Court.

(3) When such person is not released on bail under sub-section (1) the Juvenile Court shall instead of committing him to prison, make an order sending him to an observation home for such period during the pendency of inquiry regarding him as may be specified in the order.

Information  
to parent  
or guardian  
or Probation  
Officer.

44. Where a child is arrested for any offence, the officer-in-charge of the police station to which the child is brought shall, as soon as may be after the arrest, inform :—

(a) the parent or guardian of the child if he can be traced, of such arrest and direct him to be present at the Juvenile Court before which the child will appear, and

(b) the Probation Officer of such arrest in order to enable him to obtain information regarding the antecedents and family history of the child and other material circumstances likely to be of assistance, to the Juvenile Court for making the inquiry.

Inquiry  
by the  
Juvenile  
Court  
regarding  
child  
offenders

45. Where a child having been charged with an offence appears or is produced before a Juvenile Court, the Juvenile Court shall hold the inquiry in accordance with the provisions of section 11 and may, subject to the provisions of this Act, make such order in relation to the child as it deems fit.

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46. (1) Where a Juvenile Court is satisfied on inquiry that a child has committed an offence, then notwithstanding anything to the contrary contained in any other law for the time being in force, the Juvenile Court may, if it so thinks fit,—

Orders that may be passed regarding child offenders.

- (a) allow the child to go home after advice or admonition ;
- (b) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person or such parent, guardian or other fit person executing a bond, with or without surety as that court may require, for the good behaviour and well being of the child for any period not exceeding three years ;
- (c) make an order directing the child to be sent to a certified school, or to be placed under the care of fit person till the child completes the age of twenty one years :

Provided that the Juvenile Court may if it is satisfied that having regard to the nature of offence and the circumstances of the case, it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit ;

- (d) order the child to pay a fine if he is over fourteen years of age and earns money.

(2) Where an order under clause (b) or (d) of sub-section (1) is made, the Juvenile Court may, if it is of opinion that in the interests of the child and of the public it is expedient so to do, in addition to make an order that the child shall remain under the supervision of the Probation Officer named in the order during such period, not exceeding three years, as may be specified therein and may in such supervision order impose such conditions as it deems necessary for the due supervision of the child:

Provided that if at any time afterwards it appears to the Juvenile Court on receiving a report from the Probation Officer or otherwise, that the child has not been of good behaviour during the period of supervision, it may, after making such inquiry as it deems fit, order the child to be sent to a certified school.

(3) The Juvenile Court making a supervision order under sub-section (2) shall explain to the child and the parent, guardian or other fit person, as the case may be under whose care the child has been placed, the terms and conditions of the order and shall forthwith furnish a copy of the supervision order to the child, the parent, guardian or other fit person, as the case may be, the sureties, if any, and the Probation Officer.

(4) In determining the certified school or any person to whose custody a child is to be committed or entrusted under this Act, the Juvenile Court shall pay due regard to the religious denomination of the child to ensure that religious instruction contrary to the religious persuasion of the child is not imparted to him.

Orders that  
may not be  
passed again-  
st children

47. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no child shall be sentenced to death or imprisonment, or committed to prison in default of payment of fine or in default of furnishing security :

Provided that where a child who has attained the age of fourteen years has committed an offence and the Juvenile Court is satisfied that the offence committed is of so serious a nature or that his conduct and behaviour have been such that it would not be in his interest or in the interest of other children in a certified school to send him to such certified school and that none of the other measures provided under this Act is suitable or sufficient, the Juvenile Court may order the child to be kept in safe custody in such place and manner as it thinks fit and shall report the case for the orders of the State Government.

(2) On receipt of a report from a Juvenile Court under sub-section (1) the State Government may make such arrangement in respect of the child as it deems proper and may order such child to be detained at such place and on such conditions as it thinks fit:

Provided that the period of detention so ordered shall not exceed the maximum period of imprisonment to which the child could have been sentenced for the offence committed.

Proceeding  
under  
Chapter  
VIII of the  
Criminal  
Procedure  
Code  
competent  
against  
child.

48. Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973, no proceeding shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code. 2 of 1974.

Removal of  
dis-qualifi-  
cation  
attaching  
to convic-  
tion.

49. When a child is found to have committed an offence, the fact that he has been so found shall not have any effect under section 75 of the Indian Penal Code or section 356 of the Code of Criminal Procedure, 1973, or operate as a disqualification for any office or employment or election under any law.

XIV  
of  
1960.  
2 of  
1974.

Expressions  
'Conviction'  
and  
'Sentence'  
not to be  
used in  
relation  
to children.

50. Save as provided in this Act, the words "Conviction" and "Sentence" shall cease to be used in relation to children dealt with under this Act and any reference in any enactment to a person convicted, a conviction or a sentence shall in the case of a child be construed as including reference to a person found guilty of an offence, a finding of guilty or an order made upon such a finding, as the case may be.

Postponement  
*sine die* of  
case of child.

51. Notwithstanding anything contained in the foregoing provisions the Juvenile Court may adjourn the case of a child *sine die* and may re-open it at the stage of the proceeding at which it was left when adjourned, on additional grounds material being placed before the Juvenile Court.

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52. In passing an order in respect of a child under this Part it shall be lawful to the Juvenile Court to exercise its powers under any one or more of the foregoing provisions at the same time, if it is necessary and expedient to do so, in the interests of the child.

Court empowered to exercise power under one or more foregoing provisions.

53. In the case of a child, whose ordinary place of residence lies outside the jurisdiction of the Juvenile Court before which he is brought, the Juvenile Court may, if satisfied after due inquiry that it is expedient so to do, send the child back to a relative or other person who is fit and willing to receive him at his ordinary place of residence and exercise proper care and control over him, notwithstanding that such place or residence is outside the jurisdiction of the Juvenile Court and the Juvenile Court exercising Jurisdiction over the place to which the child is sent shall, in respect of any matter arising subsequently, have the same powers in relation to the child as if the original order had been passed by itself.

Sending a child outside jurisdiction and powers of courts at the place of residence of the child.

PART VII.

SPECIAL OFFENCES IN RESPECT OF CHILDREN.

54. (1) Whoever having the actual charge of, or control over, a child wilfully assaults, illtreats, neglects, abandons or exposes him or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed or negligently fails to provide adequate food, clothes, or medical aid or lodging for a child in a manner likely to cause such child unnecessary mental and physical suffering shall on conviction be punished with imprisonment of either description for a term not exceeding two years or with fine which may extend to one thousand rupees or with both :

Punishment for cruelty to children.

Provided that in the case of married children the court trying the offence under this section may sanction its composition for reasons to be recorded in writing .

(2) (a) Whoever, being an employer of a child, exacts work from the child to such an extent or illtreats him in such a manner, as to cause injury to his health shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

(b) For the purpose of this sub-section, injury to health includes injury to, or loss of sight or hearing and injury to limb or organ of the body and any mental derangement.

(c) A person may be convicted of an offence under this sub-section notwithstanding that the actual suffering or injury to health was obviated by the action of another person.

(3) The infliction of reasonable punishments on a child for a proper reason shall not be deemed to be an offence under this section.

Employing  
children for  
begging.

55. Whoever employs any child for the purpose of begging or causes any child to beg or whoever having the custody, charge or care of a child connives at or encourages the employment for the purposes of begging or the causing of a child to beg and whoever uses a child as an exhibit for the purpose of begging shall on conviction be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to three hundred rupees or with both.

Penalty for  
having  
drunk  
while in  
charge of  
child etc.

56. If any person is found drunk in any public street or other public place whether a building or not, while having the charge of a child and is incapable by reason of his drunkenness of taking due care of the child, such person shall on conviction be punished with fine which may extend to two hundred rupees.

Penalty for  
giving  
intoxicating  
liquor or  
dangerous  
drug to  
child.

57. Whoever in any public street or other public place whether a building or not gives or causes to be given to any child any intoxicating liquor or dangerous drug except upon the order of a duly qualified medical practitioner in case of a sickness or other urgent cause shall, on conviction, be punished with fine which may extend to two hundred rupees.

Penalty for  
permitting  
child to  
enter  
places  
where  
liquor or  
dangerous  
drugs are  
sold.

58. Whoever takes a child to any place where intoxicating liquor or dangerous drugs are sold, or whoever, being the proprietor, owner or a person in charge of such place, permits a child to enter such place or whoever causes or procures a child to go to such place shall on conviction be punished with fine which may extend to two hundred rupees.

Inciting  
child to, bet  
or borrow.

59. Whoever by words either spoken or written or by signs or otherwise incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites or attempts to incite a child to borrow money or to enter into any transaction involving the borrowing of money shall on conviction be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Taking on  
pledge or  
pawan  
articles  
from child.

60. Whoever takes an article on pledge from the child whether offered by that child on his own behalf or on behalf of any person shall on conviction, be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

Allowing or  
permitting  
child to be  
in brothel.

61. Whoever allows or permits a child over the age of four years to reside in or frequently go to a brothel shall on conviction be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.



62. (1) Whoever having the actual charge of, or control over, a girl under the age of sixteen years causes or encourages the seduction (which shall include inducement to indulge in immoral behaviour), or prostitution of that girl or causes or encourages any one other than her husband to have sexual inter-course with her shall on conviction be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Causing or encouraging seduction.

(2) For the purpose of this section a person shall be deemed to have caused or encouraged the seduction of a girl or to have induced her to behave immorally if he has knowingly allowed the girl to consort with or to enter or continue in the employment of any prostitute or person of known immoral character.

63. Whoever seduces or indulges in immoral behaviour with a girl under the age of sixteen years shall on conviction be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Seduction or outrage of modesty.

64. If it appears to a court on the complaint of any person that a girl under the age of sixteen years is, with or without the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution, the court may direct the parent or guardian to enter into a recognisance to exercise due care and supervision in respect of such girl.

Young girl exposed to the risk of seduction.

65. (1) Whoever secures a child ostensibly for the purpose of menial employment or for labour in a dock, factory or other establishment, but in fact exploits the child for his own ends; or withholds or lives on his earnings shall on conviction be punished with fine which may extend to one thousand rupees.

Exploitation of child employees.

(2) Whoever secures a child ostensibly for any of the purposes mentioned in sub-section (1), but exposes such child to the risk of seduction, sodomy, prostitution or other immoral conditions shall on conviction be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

(3) Any person who avails himself of the labour of a child exploited in the manner referred to in sub-section (1) or (2) or for whose immoral gratification such child is used shall be liable as an abettor.

66. Whoever—

(a) knowingly assists or induces, directly or indirectly, a child detained in a certified school or a child placed out on licence under section 82 to escape from the school or from any person with whom, as the case may be, he has been placed out on licence, or any child to escape from the person to whose care he has been committed under the provisions of this Act, or

(b) knowingly harbours, conceals, connives at or prevents from returning to the certified school or to any person with whom he is placed out on licence or to whose care he is committed under this Act, a child who has so escaped or knowingly assists or connives at so doing,

Penalty for abetting escape of child or youthful offender.

shall on conviction be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Penalty for use of voluntary home in contravention of section 33.

67. Whoever uses or knowingly permits to be used any voluntary home in contravention of the provisions of section 33 shall on conviction be punished with fine which may extend to five hundred rupees and to a further fine not exceeding fifty rupees in respect of each day during which the institution is so used or permitted to be used after the conviction.

Penalty for publication of report or picture relating to children.

68. Whoever publish any report or picture in contravention of the provisions of section 20 shall on conviction be punished with imprisonment of either description for a term not exceeding two months or with fine which may extend to five hundred rupees or with both.

Offences under this Part cognizable.

69. All offences under this Part shall be cognizable.

### PART-VIII.

#### MEASURES FOR DETENTION ETC. OF VICTIMISED CHILDREN.

Detention of children in place of safety.

70. (1) Any police officer not below the rank of sub-inspector or a police officer or a person authorised in this behalf in accordance with rules made by the State Government may take to a place of safety any child in respect of whom an offence has been, or there is reason to believe that an offence has been or is likely to be, committed.

(2) A child so taken to a place of safety and also any child who seeks refuge in a place of safety may be detained until he can be brought before the Juvenile Court:

Provided that such detention shall not in the absence of a special order of the Juvenile Court exceed a period of twenty four hours exclusive of the time necessary for the journey from the place of detention to the Juvenile Court.

(3) The Juvenile Court may thereupon make such order as hereinafter provided.

Juvenile Court powers for care and detention of child.

71. (1) Where it appears to the Juvenile Court that an offence as specified in section 70 has been committed or is likely to be committed in respect of any child, who is brought before it and that it is expedient in the interests of the child that action should be taken under this Act, the Juvenile Court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for the institution of the proceedings against the person for having committed the offence in respect of the child or for the purpose of taking such other lawful action as may be necessary.

(2) The order of detention made under sub-section (1) shall remain in force until such time as the proceedings instituted against any person for an offence referred to in sub-section (1) terminate in either conviction, discharge or acquittal:



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Provided that if the proceedings terminate in conviction of the person, the order of detention shall remain in force for a further period of one month.

(3) An order passed under this section shall be given effect to, notwithstanding that any person claims the custody of the child.

72. Any court by which a person is convicted of having committed an offence in respect of a child or before which a person is brought for trial for any such offence or by which a person is bound over to keep the peace towards a child shall direct that the child against whom the offence has been committed, or in relation to the alleged offence against whom the trial is in progress, or in relation to keeping the peace towards whom the adult concerned has been bound over shall be produced before a Juvenile Court with a view to that Juvenile Court making such interim and final order as may be proper :

Victimised child to be sent to Juvenile Court.

Provided that in an area where no Juvenile Court has been established, the court if it is not competent to exercise the powers of a Juvenile court under section 7 shall submit the proceedings and forward the child to the court of a first class magistrate competent to exercise the powers of a Juvenile Court.

73. The Court before which a child is produced in accordance with section 72 may order the child—

Order for commitment of victimised children.

(a) to be committed to a certified school until such child attains the age of twenty-one years or in exceptional cases for a shorter period, the reasons for such shorter period to be recorded in writing, or

(b) to be committed to the care of a relative or other fit person on bond with or without surety as the Court may require, such relative or fit person being willing and capable of exercising proper care, control and protection of the child and of observing such other conditions including, where necessary, supervision for any period not exceeding three years as the Court may impose in the interest of the child :

Provided that if the child has a parent or guardian fit and capable in the opinion of the Court of exercising proper care, control and protection the Court may allow the child to remain in his custody or may commit the child to his care on bond, with or without surety, in a prescribed form or for the observance of such conditions as the Court may impose in the interest of the child.

74. The Court which makes an order committing a child to the care of his parent, guardian or other fit person under the foregoing provisions may in addition order that he be placed under supervision.

Supervision of victimised children.

75. If it appears to the Juvenile Court on receiving a report from the Probation Officer or otherwise, that there has been a breach of the supervision order relating to the child in respect of whom the supervision order had been passed, it may after making such inquiries as it deems fit, order the child to be detained in a certified school or to be committed to the care of a fit person.

Breach of supervision.

Repatriation  
of victimised  
child.

76. (1) In the case of a child the ordinary place of whose residence is outside the jurisdiction of the Court before which he is produced, if the Court is satisfied after due inquiry that it is expedient so to deal with the child, the Court may order the child to be sent on his own bond back to a relative or fit person who is fit and willing to receive him at his native place and exercise proper care and control of him, notwithstanding the fact that the place of residence of such child may be at any place outside the State.

(2) For breach of a bond taken under sub-section (1) the child shall be liable to be committed to a certified school or to the care of a fit person if found again in the State.

Reasons to  
be recorded  
for orders  
under  
sections  
73 to 76.

77. The reasons for any order made under sections 73 to 76 shall be recorded in writing and any such order may be made by the Court in the absence of the child.

Order  
under  
sections  
73 to 76  
to be in force  
even if  
conviction  
of alleged  
victimisation  
is set aside.

78. Where an order is made under sections 73 to 76 and the conviction or order binding the person to keep the peace is set aside or the person is acquitted the order made under the said sections shall remain in force but it shall be open to the person so acquitted or discharged from his bond to keep the peace to apply for a reconsideration of the said order in consequence of the altered circumstances.

Warrant to  
search for  
child.

79. (1) If it appears to the Juvenile Court from information on oath or solemn affirmation laid by any person who in its opinion is acting in the interests of the child, that there is reasonable cause to suspect that an offence has been or is being committed or unless immediate steps be taken, will be committed in respect of the child, the Juvenile Court may issue a warrant authorising any police officer named therein to search for such child and if it is found that he has been or is being wilfully ill-treated or neglected in manner aforesaid or that any offence has been or is being committed in respect of the child, to take the child to and detain him in a place of safety until he can be brought before it, and the Juvenile Court before which the child is brought may in the first instance remand him in the prescribed manner to a place of safety.

(2) The Juvenile Court issuing a warrant under this section may in its discretion by the same warrant direct that any person accused of any offence in respect of the child, be apprehended and brought before it, or direct that if such person executes a bond with sufficient sureties for his attendance before the Juvenile Court at a specified time and thereafter until otherwise directed by the Juvenile Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(3) The police officer executing the warrant shall be accompanied by the person laying the information if such person so desires and may also if the Juvenile Court by whom the warrant is issued so directs be accompanied by a duly qualified medical practitioner.

(4) In any information or warrant under this section the name of the child shall be given if known.

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80. (1) It shall be the duty of the police Officer immediately after effecting the arrest of the child to inform the Probation Officer or officer in charge of an observation home for the purpose stated in section 44.

Information to Probation Officer by police or any person effecting arrest.

(2) It shall be the duty of any other person effecting such arrest to inform the Probation Officer for the like purpose as provided in section 44.

(3) The Juvenile Court for the purpose of such inquiry, may remand the child even in his absence from time to time for a period not more than fourteen days at time until available information has been obtained.

(4) The police officer or any other person effecting such arrest shall inform the parent of the child of such arrest if he can be found, and direct him to be present at the Juvenile Court before which the child will appear.

PART IX

MAINTENANCE AND TREATMENT OF COMMITTED CHILDREN

81.(1) The Juvenile Court which makes an order for sending a child to a certified school or for placing any such child under the care of a relative or other fit person may make an order on the parent or other person liable to maintain the child to contribute to his maintenance, if able to do so, in the prescribed manner.

Contribution of parent.

(2) The Juvenile Court before making any order under sub-section (1) shall inquire into the circumstances of the parent or other person liable to maintain the child and shall record evidence, if any, in the presence of the parent or such other person, as the case may be.

(3) Any order made under this section may be varied by the Juvenile Court on the application made to it by the party liable or otherwise.

(4) The person liable to maintain a child shall for the purpose of sub-section (1) include in the case of illegitimacy his putative father:

2 of 1974. Provided that where the child is illegitimate and an order for his maintenance has been made under section 125 of the Code of Criminal Procedure, 1973, the Juvenile Court shall not ordinarily make an order for contribution against the putative father but may order the whole or any part of the payment accruing due under the said order for maintenance to such person or persons as may be named, to be supplied by him or them, as the case may be, towards the maintenance of the child.

2 of 1974. (5) Any order under this section may be enforced in the same manner as an order under section 125 of the Code of Criminal Procedure, 1973.

82.(1) Subject to the prescribed conditions the Chief Inspector may at any time after the commencement of the detention of a child in a certified school or the placing of a child under the care of a fit person institution on the recommendation of the visitors or managers of the certified school or on application by a parent, other relative or guardian reinforced by local inquiries

Placing out on licence.

made through the Gujarat State Probation and After-Care Association or otherwise, release such child from the school or institution and grant him a written licence in the prescribed form and on the prescribed condition permitting him to live with, or under the supervision and authority of, such responsible person or society named in the licence willing to receive and take charge of him and approved by the Chief Inspector, with a view to educating him and training him for some useful trade or calling.

(2) Any licence granted under sub-section (1) shall be in force for the period, if any, specified in the licence or until revoked or forfeited by the breach of any of the conditions on which it was granted.

(3) The Chief Inspector may at any time by order in writing revoke any such licence and order the child to return to the certified school, or as the case may be the fit person or institution from which he was released and shall do so at the desire of the person or society with whom or under whose supervision he is licenced to live. If the child refuses or fails to return to the school or fit person institution the Chief Inspector may if necessary call for the papers and deal with the case himself making such order, as he thinks fit in the interest of the child or direct the arrest of the child and cause him to be placed before the Juvenile Court or taken back to the school, or fit person institution as the case may be.

(4)(a) When a licence has been revoked or forfeited and the child refusing or failing to return to the school or fit person institution has been arrested and placed before the Juvenile Court under the provision of sub-section (3), the Juvenile Court may, if satisfied by information on oath or solemn affirmation that there is reasonable ground for believing that his parent or guardian could produce the child, issue a summons requiring the parent or guardian to attend at the Juvenile Court on such day as may be specified in the summons and to produce the child.

(b) If the parent or guardian fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, on conviction, be punished with fine which may extend to fifty rupees.

(5) Where a parent or guardian is directed to pay a fine under this section the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1973.

2 of  
1974.

(6) The time during which the child is absent from the certified school, or fit person in pursuance of a licence granted under this section, shall be deemed to be part of the time of his detention in the school or of his being under the care of a fit person, as the case may be :

Provided that, where a child has failed to return to the school or fit person on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school or is to be under the care of the fit person institution, as the case may be.

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83. (1) Notwithstanding anything to the contrary contained in any law for the time being in force, any police officer may arrest without a warrant a child who has escaped from a certified school or from the supervision of a society or a person under whose supervision he was directed to remain and shall send the child back to the certified school, or society or the person without registering any offence or prosecuting the child and the said child shall not be deemed to have committed any offence by reason of such escape but he shall be dealt with by the authorities of the institution concerned in such manner as they think fit.

Action by police with escaped children.

(2) When a child absconding from a certified school has been arrested at a different place he shall be detained in a place of safety pending his removal to a certified school.

PART X

APPEALS

84. (1) Any person aggrieved by a final order may appeal to the courts hereinafter mentioned.

Appeals.

(2) If a final order is passed—

(a) by a Juvenile Court, an appeal shall lie to the Court of Session;

(b) by a Court of Session, an appeal shall lie to the High Court.

(c) Except as provided in this section no appeal shall lie from any order passed under this Act by a Juvenile Court.

2 of 1974.

85. The provisions of sections 382 to 394 (both inclusive) of the Code of Criminal Procedure, 1973, shall *mutatis mutandis* apply to appeals against final order as if the said orders were the orders of conviction and sentence passed by a Criminal Court.

Application of Criminal Procedure Code to Appeal.

86. (1) The period of limitation for an appeal against a final order shall be thirty days in the case of appeals to courts other than the High Court and sixty days in the case of an appeal to the High Court, from the date of the order appealed against.

Period of limitation for appeal.

XXX-VI of 1963.

(2) The provisions of sections 5, 7 and 12 of the Limitation Act, 1963, shall apply to the filing of such appeals.

87. The High Court may at any time either of its own motion or on an application received in this behalf call for the record of any proceeding in which any Juvenile Court or Court of Session has passed an order, for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit :

Revision.

Provided that the High Court shall not pass an order under this section prejudicial to any person without giving him reasonable opportunity of being heard.



## PART XI

## MISCELLANEOUS

Discharge  
and  
transfer.

88. (1) The State Government or any officer authorised in this behalf by the State Government, may at any time order a child to be discharged from a certified school either absolutely or on such conditions as the State Government or such officer may think fit to impose.

(2) (a) The State Government may order a child who has attained the age of 16 years and who is detained in a certified school to be transferred to a Borstal School established under the Bombay Borstal School Act, 1929, in the interest of discipline or for other special reasons.

BOM.  
XVIII  
of 1929

(b) Any child over the age of sixteen years who has been released on licence and who has committed a breach of any of the conditions of licence and whom it is not advisable to send back to his own school or institution may be transferred to a Borstal School:

Provided that the whole period of detention of the child shall not be increased by the transfer.

(3) In case of the transfer of a child to a Borstal School under subsection (2) the provisions of the Bombay Borstal Schools Act, 1929, shall apply to such child as if he had been originally ordered to be detained in a Borstal School under that Act.

BOM.  
XVIII  
of 1929

(4) The State Government or any officer authorised in this behalf by the State Government may at any time in its or, as the case may be, his discretion discharge a child from the care or supervision of any person or body of persons to whose care or supervision he is committed under this Act, either absolutely or on such conditions as the State Government or such officer may think fit to impose.

Transfer  
between  
institutions  
and those of  
like nature  
in different  
parts of  
India.

89. (1) The State Government or any person authorised in this behalf by the State Government may in consultation with the manager of a certified school, consent to the transfer to that school of any child in respect of whom an order has been made by a Juvenile Court in any other part of India of the nature of an order under this Act directing him to be sent to a certified or reformatory school or institution of a like nature, and upon such transfer the provisions of this Act shall apply to such child.

(2) The State Government or any person authorised in this behalf by the State Government may direct any child to be transferred from any certified or reformatory school or institution to any school or institution of a like nature in any other part of India in respect of which provision similar to that in the State of Gujarat is made by the Government of that part under any law in force therein:

Provided that no such child shall be transferred under this section to any other State without the consent of the Government of that State.

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90. (1) Where it appears to the State Government that any child detained in a certified school under any order of a Juvenile Court is of unsound mind or a leper, the State Government may, by an order setting forth the grounds of belief that the child is of unsound mind or a leper, order his removal to a mental hospital or leper asylum or other place of safe custody, for being kept there and treated as the State Government directs during the remainder of the term for which he has been ordered to be detained or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the child or of others that he should be further detained under medical care or treatment, then until he is discharged according to law.

Transfer of children of unsound mind or suffering from leprosy.

(2) Where it appears to the State Government that the child has become of sound mind, or is cured of leprosy, the State Government shall, by an order directed to the person having charge of the child if still liable to be kept in custody, send him to the certified school from which he was removed, or if the child is no longer liable to be kept in custody, order him to be discharged.

IV of 1912.

III of 1898.

(3) The provisions of section 31 of the Indian Lunacy Act, 1912, or subject to the provision of sub-section (2), the provisions of section 14 of the Lepers Act, 1898, shall apply to every child after the expiration of the period for which asylum under sub-section (1) after the expiration of the period for which he was ordered to be detained; and the time during which a child is confined in a mental hospital or leper asylum under that sub-section shall be reckoned as part of the period for which he may have been ordered by the Juvenile Court to be detained:

IV of 1912.

III of 1898.

Provided that where the removal of a child due to unsoundness of mind or leprosy is immediately necessary, it shall be open to the authorities of the institution in which the child is detained to apply to a court having jurisdiction under the Indian Lunacy Act, 1912, or the Lepers Act, 1898, as the case may be, for an immediate order of committal of the child to mental hospital or leper asylum until such time as the order of the State Government can be obtained in the matter.

91. The Chief Inspector may direct any child to be transferred from one institution to another institution whether such institution be a certified school or a fit person institution :

Transfer from one institution to another.

Provided that the total period of detention of a child shall not be increased by such transfer.

92. (1) If in any case in which information has been laid by any person under the provisions of section 79 the Juvenile Court after such inquiries as it may deem necessary is of opinion that such information was false and either frivolous or vexatious, the Juvenile Court may for reasons to be recorded in writing order that compensation equal to such an amount not exceeding one hundred rupees as it may determine be paid by such informer to the person against whom the information was laid.

Compensation for false and frivolous or vexatious information.

(2) Before making any order for the payment of compensation, the Juvenile Court shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show.



(3) The Juvenile Court may by the order directing payment of compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a term not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply.

XLV of  
1860.

(5) No person who has been ordered to pay compensation under this section shall by reason of such order be exempted from any civil or criminal liability in respect of the information given by him out any amount paid as compensation shall be taken into account in any subsequent civil suit relating to such matter.

(6) When an order for the payment of compensation is made under sub-section (1), the compensation shall not be paid to the person ordered to receive it before the period allowed for the presentation of an appeal has expired.

Powers to  
amend  
orders.

93. (1) Without prejudice to the powers of courts of appeal and revision, any order for custody, supervision order or probation order may be amended by the Juvenile Court which made such order in respect of the person named as custodian, supervisor or Probation Officer or the period of custody, supervision or probation or such other details as may be deemed necessary:

Provided that in case of emergency and for immediate necessity an order committing a child to an institution may be varied by way of change in the institution to which the order relates, such variation being subject to confirmation by the Chief Inspector.

(2) Clerical mistakes in orders passed by a Juvenile Court or errors arising therein from any accidental slip or omission may at any time be corrected by the Juvenile Court either on its own motion or on application received in this behalf.

Control  
over  
custodian of  
child.

94. Any person to whose care a child is committed under the provisions of this Act shall, while the order is in force, have the like control over the child, as if he were his parent and shall be responsible for his maintenance and the child shall continue in his care for the period stated by the Juvenile Court notwithstanding that he is claimed by his parent or any other person :

Provided that no child while in such custody shall be married except with the permission of the Juvenile Court.

Powers to  
authorise  
to send  
children to  
observation  
home  
instead of to  
certified  
schools or  
institutions.

95. Whenever under the provisions of this Act it is provided that the child shall be committed to a certified school, it shall be lawful for the authority concerned to order such child to be sent to an observation home or a voluntary home instead, if in the opinion of such authority such order shall be in the interest of the child.

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2 of  
1974.

96. The provisions of sections 445 to 450 (both inclusive) of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to bonds taken under this Act.

Bonds  
taken  
under the  
Act.

XLV  
of  
1860.

97. The Probation Officers, Assistant Director of Social Defence, Inspectors of certified schools, including the Chief Inspector and all other persons authorised or entitled to act under any of the provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Probation  
Officers,  
Chief  
Inspector  
and  
Inspectors  
and  
persons  
authorised  
to be deemed  
to be public  
servants;

98. No suit, prosecution or legal proceeding, shall be instituted against any person for any thing which is in good faith done or intended to be done under this Act.

Protection  
of action  
taken under  
this Act.

99. (1) The State Government may, by notification, in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to  
make  
rules.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may be made for all or any of the following matters, namely:-

(a) the qualifications of honorary Social Workers under sub-section (2) of section 6 ;

(b) the place at which, the days on which and the manner in which, the Juvenile Court may held its sittings under sub-section (1) of section 11;

(c) the procedure to be followed by the Juvenile Court in holding the inquiries under this Act, and the mode of dealing with children suffering from dangerous diseases or mental complaints;

(d) the circumstances, in which and the conditions subject to which institutions may be certified as certified schools or recognised as observation homes, and certification and recognition may be withdrawn;

(e) management of certified schools, and observation homes ;

(f) the functions and responsibilities of the certified schools, and observation homes ;

(g) the inspection of certified schools, observation homes, and after care organisations ;

(h) the establishment, management and functions of after care organisations, the circumstances in which and the conditions subject to which an institution may be recognised as after care organisation under section 24;

(i) the qualifications and duties of the probation officers ;

(j) the powers and duties of the Chief Inspector, Assistant Director of Social Defence, Inspectors, Assistant Inspectors, the Probation Officers, and such other officers as are appointed by the State Government under section 35;

(k) the recruitment and training of persons appointed to carry out the purposes of the Act and the terms and conditions of their services;

(l) the manner of authorisation of persons for the purposes of section 38 and 70;

(m) the manner in which an inquiry may be held by Juvenile Court under sub-section (1) of section 40;

(n) the manner in which a child shall be ordered to be committed to a certified school or fit person institution or to the care of a relative or other fit person under clauses (a) and (b) of section 73 and form of bond under the proviso to that section

(o) the manner in which the child shall be remanded to a place of safety under sub-section (1) of section 79 ;

(p) the manner in which the contribution for the maintenance of the child may be ordered to be paid under sub-section (1) of section 81;

(q) the conditions under which a child may be brought from the certified school or fit person institution on licence and form and condition of such licence under sub-section (1) of section 82;

(r) any matter which has to be or may be prescribed under the Act.

(3) The power to make rules conferred by this section shall be subject to the condition of previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to the re-cission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Amendment  
of section 6  
of the  
Bombay  
Borstal  
Schools  
Act, 1929.

Repeal and  
saving.

100. In the Bombay Borstal Schools Act, 1929, in section 6, in clause (a), the words and figures "or, in any district or place in which the Bombay Children Act, 1924 is not in operation less than fifteen" shall be deleted.

101. (1) The Bombay Children Act, 1948 and the Saurashtra Children Act, 1956 are hereby repealed :

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XVIII  
of  
1929.  
Bom.  
XVIII  
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of  
1948.

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XXI  
of  
1956.

PART VI GUJARAT GOVERNMENT GAZETTE, EX-13-7-1995 19-31

(2) Notwithstanding the repeal of the Acts referred to in sub-section (1) (hereinafter referred to as "the repealed Acts").—

(a) the Juvenile Courts and the Children's Court established under the repealed Acts shall be deemed to be Juvenile Courts established under this Act;

(b) the special or certified schools, remand homes, observation homes, approved places, voluntary homes and other institutions established, certified or recognized under the repealed Acts shall be deemed to be established, certified or recognized as institutions corresponding to the institutions under this Act and a remand home shall be deemed to correspond to an observation home ;

(c) all certificates or similar authorisations granted and transfers made under the repealed Acts shall be deemed to be granted or made under this Act ;

(d) all cases, proceedings and appeals pending before any court under the repealed Acts shall be continued by the said court, or, as the case may be, shall be transferred to and continued by the said Court or, as the case may be, shall be transferred to and continued before the Court which would have jurisdiction to conduct such cases, proceedings or appeals, as if they were cases, proceedings and appeals under this Act;

(e) all appeals against orders of the courts appointed under the repealed Acts which would have laid under the said Acts shall be deemed to be appeals from orders made by courts under this Act and shall be presented to the courts empowered to hear appeals under this Act and shall be disposed of accordingly;

(f) any appointment, notification, notice, order, rule or form made or issued or any other thing done or action taken under the repealed Acts shall continue to be in force and be deemed to have been made, issued, done or taken under the corresponding provisions of this Act in so far as such appointment, notification, notice, order, rule, form, thing or action is not inconsistent with the provisions of this Act and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule, form, thing or action made, issued, done or taken under this Act.

Bom.  
I of  
1904.

(3) Without prejudice to the provisions contained in sub-section (2) and subject thereto, section 7 of the Bombay General Clauses Act, 1904 shall apply, in relation to the repeal of the Acts referred to in sub-section (1) as if the said Acts had been enactments within the meaning of the said section 7.

STATEMENT OF OBJECTS AND REASONS

So far as the law relating to the custody, protection, treatment and rehabilitation of children and youthful offenders and the trial of youthful offenders is concerned there are in force in the Bombay and Kutch areas of the State of Gujarat the Bombay Children Act, 1948 and in the Saurashtra area of

the State, the Saurashtra Children Act, 1956. In pursuance of the Government's policy of bringing about unification of laws in the State, it is proposed to enact a new law on the subject uniformly applicable to all areas of the State and to repeal the existing Acts on the subject. While unifying this law, this Bill assimilates some of the special provisions of the Children Act, 1960 (60 of 1960) which is a central law applicable to Union Territories, in the existing scheme of the Bombay Children Act, 1948.

2. Some important deviations from the scheme of the existing law on the subject which are of special significance are :—

1. Two new classes of institutions, called "Observation Homes" and "After Care Organisations" are envisaged. The former would provide for the temporary reception of children pending inquiry whereas the latter would provide for care of children after their release from observation homes or certified schools.

2. The following notes on clauses explain in brief the main provisions of the Bill :—

*Clause 6.*—This clause provides for the establishment of Juvenile Courts for exercising powers and discharging duties conferred or imposed on Juvenile Courts under this Bill.

*Clause 7.*—This clause provides for the jurisdiction of the Juvenile Courts.

*Clause 9.*—This clause prohibits joint trial of child and an adult in an area where a Juvenile Court has been established.

*Clause 22.*—This clause provides for the establishment and maintenance of, as also for the certification of, industrial schools, as certified schools, for the reception of children.

*Clause 23.*—This clause provides for the establishment of Observation Homes for temporary reception of children during pendency of any enquiry regarding them.

*Clause 24.*—This clause provides for establishment of after care organisations to take care of children after they leave observation homes or certified schools.

*Clause 33.*—This clause provides for the inspection of voluntary homes maintained by voluntary contributions and for causing general or specific directions for welfare of children in such homes.

*Clause 34.*—This clause provides for the inspection of certified schools.

*Clause 38.*—This clause makes provision for the production of a neglected child before a Juvenile Court and for sending him to the observation home until he can be brought before the Court.



*Clause 39:*—This clause makes special provision for initiating an inquiry regarding a neglected child who is under the charge or control of a parent or a guardian.

*Clause 40:*—This clause provides for an inquiry by the Juvenile Court regarding neglected children produced before it and for empowering the Juvenile Court to make an order directing the child to be sent to a children's home or to a fit person.

*Clause 44:*—This clause provides that where a child is arrested the police officer shall inform as soon as possible the parent or guardian of the child and the probation officer.

*Clauses 45 and 46:*—These clauses provide for the inquiry by the Juvenile Court regarding delinquent children alleged to have committed an offence and for the orders that may be passed on such inquiry when the Court is satisfied about the commission of offence by the child.

*Clause 47:*—This clause prohibits the infliction of penalty of death or imprisonment on children.

*Clause 53:*—This clause empowers the Juvenile Court if necessary, to send the child back to a relative who is residing outside its jurisdiction.

*Clauses 54 to 69:*—These clauses deal with special offences in respect of children.

*Clauses 70 to 80:*—These clauses deal with special measures in respect of victimised children.

*Clauses 81 to 83:*—These clauses provide for maintenance and treatment of committed children.

*Clauses 84 to 87:*—These clauses provide for appeals and revision.

*Clauses 88 to 91:*—These clauses provide for power of Government and other authorised officers to discharge a child from a certified school or to transfer a child from one institution to another institution.

*Clause 92:*—This clause provides for compensation for false, frivolous or vexatious information.

*Clause 99:*—This clause provides for power of the State Government to make rules and the matters to be provided by rules.

*Clause 101:*—This clause provides for the repeal of the existing Acts and the consequences of the repeal.

Date the 13th June, 1995. DR. CHANDRIKABEN CHUDASAMA,  
M. L. A.

#### FINANCIAL MEMORANDUM

At present in the Bombay area and the Kutch area of the State of Gujarat, the Bombay Children Act, 1948 and in the Saurashtra area of the State of Gujarat, the Saurashtra Children Act, 1956 are in force. This Bill provides for unification of laws in the State on the subject. On account of the proposed enactment no particular additional financial implications are involved because the machinery for implementation for the provisions of the proposed enactment is already in existence. However, under the Bombay Children Act, 1948 a child who is committed to the certified school can be kept in

the school until he attains the age of 18 years; but under the Saurashtra Children Act, 1956 the child can be kept in such institution till he attains the age 21 years. In the proposed new enactment it is proposed to fix this age as 21 years. This provision would result in additional estimated expenditure of about one lakh rupees every year. This expenditure would be of recurring nature.

Date the 13th June, 1995.

DR. CHANDRIKABEN CHUDASAMA,  
M. L. A.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill provides for delegation of powers of legislative nature in the following clauses, namely:—

*Clause 1.*—Sub-clause (3) of this clause empowers the State Government of specify a date or different dates on which all or as the case may be different provisions of the Act shall come into force in the whole or different areas of the State.

*Clause 2.*—This clause empowers the State Government to direct that all or any of the provisions of the Act shall not apply to any class of children in the whole or in any area of the State.

*Clause 11.*—This clause empowers the State Government to prescribe by rules, the place, day and manner in which Juvenile Court shall hold its sittings.

*Clause 24.*—This clause empowers the State Government to make rules for the establishment, organisation and function of after care organisations, the circumstances in which and the conditions subject to which an organisation may be recognised as after care organisation.

*Clause 37.*—This clause empowers the State Government to prescribe powers and duties of various officers specified therein.

*Clauses 38 and 70.*—These clauses empowers the State Government to lay down the manner authorisation of persons for the purposes specified in those clauses.

*Clause 40.*—This clause empowers the State Government to provide for the manner in which an inquiry may be held by a Juvenile Court under that clause.

*Clause 80.*—This clause empowers the State Government to prescribe the manner in which contribution to the maintenance of the neglected or delinquent child shall be made by the parent or other person liable to maintain the child.

*Clause 82.*—This clause empowers the State Government to prescribe the conditions subject to which a child shall be released on licence and to prescribe the form of license.

*Clause 99.*—This clause empowers the State Government to make rules for carrying out the purposes of the Act and in particular for matters specified in sub-clause (2).

The delegation of powers is necessary and is of normal character.

Date the 13th June, 1995.

DR. CHANDRIKABEN CHUDASAMA,  
M.L.A.

Gandhinagar

Dated the 13th July, 1995.

N. K. KATHIRIA,  
Secretary,

Gujarat Legislative Assembly.





**The Gujarat Government Gazette**  
**EXTRAORDINARY**  
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Separate paging is given to this Part in order that it  
 may be filed as a Separate Compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 19th July, 1995 by Shri Nitin Patel, Minister for Health is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

**THE GUJARAT MEDICAL COUNCIL (AMENDMENT)  
 BILL, 1995.**

**GUJARAT BILL NO. 20 OF 1995**

**A BILL**

*further to amend the Gujarat Medical Council Act, 1967.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Medical Council (Amendment) Act, 1995. Short title.

Guj. 10  
of 1968.

2. In the Gujarat Medical Council Act, 1967 (hereinafter referred to as "the principal Act"), in section 16, in sub-section (3), for the words "a fee of fifty rupees", the words "the prescribed fee" shall be substituted. Amendment of section 16 of Guj. 10 of 1968.

3. In the principal Act, in section 17, in sub-section (2), for the words "a fee of fifty rupees", the words "the prescribed fee" shall be substituted. Amendment of section 17 of Guj. 10 of 1968.

4. In the principal Act, in section 19, in sub-section (1), for the words "a fee of five rupees", the words "the prescribed fee" shall be substituted. Amendment of section 19 of Guj. 10 of 1968.

Amendment of  
section 23 of  
Guj. 10 of  
1968.

5. In the principal Act, in section 23,—

(1) in clause (b), for the words "a fee of rupees two", the words "the prescribed fee" shall be substituted;

(2) in clause (c), in the proviso, for the words "a fee of rupees five", the words "the prescribed fee" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

At present Section 16(3) and 17(2) of the Gujarat Medical Council Act, 1967 provide for registration fee of Rs. 50/- for the registration of Medical practitioners and section 19(1) provides for a fee of Rs. 5/- for provisional registration. Similarly, a fee of Rs. 2/- is leviable under clause (b) of section 23 for renewal of registration and Rs. 5/- is leviable under clause (c) of that section for re-entering the name in the register. It is considered necessary to empower the State Government to prescribe the scale of fees by rules from time to time having regard to prevailing price structure and increase in emoluments of the employees of the Council. It is, therefore, proposed to amend sections 16, 17, 19 and 23 of the Act to achieve the aforesaid objects.

NITIN PATEL.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill provide for delegation of powers of legislative character in the following respects, namely :—

*Clause 2.*—Sub-section (3) of section 16 proposed to be amended by this clause empowers the State Government to prescribe a fee to be paid by a person for getting his name registered as medical practitioner.

*Clause 3.*—Sub-section (2) of section 17 proposed to be amended by this clause empowers the State Government to prescribe a fee to be paid by a person who possesses a medical qualification granted by any authority in any place outside the territory of India, for getting his name registered as a medical practitioner.

*Clause 4.*—Sub-section (1) of section 19 proposed to be amended by this clause empowers the State Government to prescribe a fee to be paid by a person who desires to be registered provisionally under section 25 of the Indian Medical Council Act, 1956.

*Clause 5.*—(1) Clause (b) of section 23 proposed to be amended by this clause empowers the State Government to prescribe a fee for renewal of registration as medical practitioner. -

(2) Clause (c) of section 23 proposed to be amended by this clause empowers the State Government to prescribe a fee for re-entering the name which is removed from the register.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 12th July, 1995.

NITIN PATEL

Gandhinagar,  
Dated the 19th July, 1995.

N. K. KATHIRIA,  
Secretary,  
Gujarat Legislative Assembly.

Government Central Press, Gandhinagar.



सत्यमेव जयते

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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*.  
The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule  
127A of the Gujarat Legislative Assembly Rules.—

**THE GUJARAT SALES TAX (AMENDMENT) BILL, 1995.**

**GUJARAT BILL NO. 21 OF 1995.**

*A BILL*

*further to amend the Gujarat Sales Tax Act, 1969.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Sales Tax (Amendment) Act, 1995.

Short title and  
commence-  
ment.

(2) It shall come into force on such date as the State Government, may by  
notification in the *Official Gazette*, appoint.

Guj. 1  
of 1970.

2. In the Gujarat Sales Tax Act, 1969 (hereinafter referred to as "the principal  
Act"), in section 12, for the words "six months", wherever they occur, the words  
"twelve months" shall be substituted.

Amendment of  
section 12 of  
Guj. 1 of 1970.

Amendment of  
section 13 of  
Guj. 1 of 1970.

3. In the principal Act, in section 13, for the words "six months", wherever they occur, the words "twelve months" shall be substituted.

Amendment of  
section 16 of  
Guj. 1 of 1970.

4. In the principal Act, in section 16, for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) Where a dealer is liable to pay tax under this section, the sales tax levied or leviable under clause (aa) of sub-section (1) or clause (aa) of sub-section (2) of section 12, or the purchase tax levied or leviable under section 15A shall be set-off against the purchase tax payable under this section."

Amendment of  
section 41 of  
Guj. 1 of 1970.

5. In the principal Act, in section 41, in sub-section (3), in the second proviso, in clause (a), for the words "five lakhs", the words "ten lakhs" and for the words "five thousand", the words "ten thousand" shall be and shall be deemed always to have been substituted with effect from 1st April, 1995.

Insertion of new  
section 41AA in  
Guj. 1 of 1970.

6. In the principal Act, after section 41, the following new section shall be inserted, namely:—

"41AA. (1) Notwithstanding anything contained in sub-sections (2) and (3) of section 41,—

Special provi-  
sion for deemed  
assessment for  
the period prior  
to 1st April,  
1994.

where any dealer has furnished the declarations or returns in respect of any specified period by such dates as prescribed therefor and paid the amount of tax due according to such declaration or return within the time prescribed by or under the Act —

- (a) in the case of a dealer, to whom a notice is issued under sub-section (3) of section 41 and whose turnover of purchases or turnover of specified sales or turnover of sales during the specified period to which the declaration or return relates does not exceed five lakhs rupees and the tax payable for the specified period does not exceed five thousand rupees, the amount of tax due from the dealer in respect of such declaration or return shall be deemed to have been assessed, if the dealer at his option makes payment of two hundred fifty rupees for each specified period in the Government treasury on or before 31st March, 1996;
- (b) in the case of a dealer whose turnover of purchases or turnover of specified sales or turnover of sales during the specified period to which the declaration or return relates does not exceed fifteen lakhs rupees and the tax payable for the specified period does not exceed twenty-five thousand rupees, the amount of tax due from such dealer in respect of such declaration or return shall, irrespective of whether a notice under sub-section (3) of section 41 is issued or not, be deemed to have been assessed, if the dealer at his option makes payment of rupees five hundred for each specified period in the Government treasury on or before 31st March, 1996;
- (c) in the case of a dealer whose turnover of purchases or turnover of specified sales or turnover of sales during the specified period to which the declaration or return relates exceeds fifteen lakhs rupees but does not exceed twenty-five lakhs rupees and the tax payable for the specified period does not exceed twenty-five thousand rupees, the amount of tax due from such dealer in

respect of such declaration or return shall, irrespective of whether a notice under sub-section (3) of section 41 is issued or not, be deemed to have been assessed, if the dealer at his option makes payment of one thousand rupees for each specified period in the Government treasury on or before 31st March, 1996.

(2) The payment made by a dealer under clause (a), (b), or (c), of sub-section (1) shall be construed,—

- (a) as if the dealer had furnished revised declaration or revised return under sub-section (3) of section 40, and
- (b) as payment made under sub-section (3) of section 47 towards the liability of the dealer to pay tax under such revised declaration or revised return.

(3) Nothing in this section shall apply to a dealer whose books of accounts, registers, or documents have been seized under sub-section (4) of section 59.

*Explanation.*—For the purposes of this section, the words "specified period" means—

- (a) in relation to a dealer who maintains regular books of accounts, any year or part of the year prior to 1st April, 1994, by reference to which the accounts are maintained by him; and
- (b) in relation to any other dealer, any financial year or part of the financial year prior to the said date."

7. In the principal Act, in section 47, in sub-section (4A), in the proviso, after clause (v), the following shall be inserted, namely:—

Amendment of  
section 47 of  
Guj. 1 of 1970.

"(vi) in the case where in assessing the amount of tax from any dealer under this Act in respect of any period, the time taken for making an order of assessment exceeds thirty-six months from the date of expiry of the time prescribed for payment of tax under sub-section (1), (2), or (3) of section 47, in respect of the period exceeding thirty-six months."

8. In the principal Act, in section 55B, after the word "Shamiyana", the words "electrical fans, electrical goods, furnitures or utensils" shall be inserted.

Amendment of  
section 55B of  
Guj. 1 of 1970.

9. In the principal Act, in Schedule I,—

Amendment of  
Schedule I to  
Guj. 1 of 1970.

(1) in the entry at serial No. 14, in column 2, for the brackets and words "(but excluding cotton seeds), other oil cakes and de-oiled cakes", the brackets and words "(but excluding cotton seeds, other oil cakes and de-oiled cakes) shall be substituted;

(2) in the entry at serial No. 37, in column 2, for the words "one hundred rupees", the words "one hundred and fifty rupees" shall be substituted;

(3) in the entry at serial No. 41, in column 2, for the words "Ghamelas and Tagaras", the words "Ghamelas and Tagaras made of G.P. sheets and C. R. sheets" shall be substituted;



(4) in the entry at serial No. 49, in column 2, for the letters and word "Rs. forty", the words "rupees fifty" shall be substituted;

(5) the entry at serial No. 83 shall be deleted;

(6) in the entry at serial No. 89, in column 2, for the word "Toys", the words "Toys other than electronic toys" shall be substituted.

Amendment of  
Schedule II to  
Guj. 1 of 1970.

10. In the principal Act, in Schedule II,—

(A) in Part-A,—

(1) for the entry at serial No. 31, the following shall be substituted, namely:—

1.	2.	3.	4.
"31.	Hosiery goods	two paise in the rupee	two paise in the rupee";

(2) after the entry at serial No. 31, the following new entry shall be inserted, namely:—

1.	2.	3.	4.
"31A.	<i>Isabgul</i>	three paise in the rupee	three paise in the rupee";

(3) for the entry at serial No. 66, the following shall be substituted, namely:—

1.	2.	3.	4.
"66.	<i>Agarbatti, padi, dhoop, dhoop- batti and loban.</i>	two paise in the rupee	two paise in the rupee";

(4) in the entry at serial No. 78, in columns 3 and 4, for the words "Twelve paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(5) in the entry at serial No. 97, in sub-entry (D), in item (9), in column 2, after the words "electronic games" occurring at two places, the words "electronic toys" shall be inserted;

(6) in the entry at serial No. 121, in columns 3 and 4, for the words "four paise in the rupee", the words "twenty paise in the rupee" shall be substituted;

(7) for the entry at serial No. 127, the following shall be substituted, namely:—

1.	2.	3.	4.
"127	Mosquito repellents in any form including its equipments and devices.	four paise in the rupee	four paise in the rupee";

(8) in the entry at serial No. 128, in sub-entry (6), in column 2, for the words "tyres and tubes", the words "tyres, tubes and flaps" shall be substituted;

(9) in the entry at serial No. 134, in columns 3 and 4, for the words "six paise in the rupee" the words "four paise in the rupee" shall be substituted;

(10) in the entry at serial No. 151, in columns 3 and 4, for the words "five paise in the rupee", the words "four paise in the rupee" shall be substituted;

(11) for the entry at serial No. 152, the following shall be substituted, namely:-

1.	2.	3.	4.
"152	(1) Spectacles, Ophthalmic lenses, Contact lenses, frames, spare parts and accessories thereof, and rough blanks.	four paise in the rupee	four paise in the rupee
	(2) Goggles and sun glasses	twelve paise in the rupee	twelve paise in the rupee";

(12) in the entry at serial No. 165, in sub-entry (ii), in columns 3 and 4, for the words "seven paise in the rupee", the words "four paise in the rupee" shall be substituted;

(13) in the entry at serial No. 180, in columns 3 and 4, for the words "fourteen paise in the rupee", the words "four paise in the rupee", shall be substituted;

(14) in the entry at serial No. 182, in sub-entry (i), in columns 3 and 4, for the words "one paise in the rupee", the words "two paise in the rupee" shall be substituted;

(15) in the entry at serial No. 183, in columns 3 and 4, for the words "twelve paise in the rupee", the words "four paise in the rupee" shall be substituted;

(16) after the entry at serial No. 184B, the following new entry shall be inserted, namely:-

1.	2.	3.	4.
"184C.	(i) <i>Variali</i> (ani seeds), (ii) <i>Jira</i> (cumin seeds), (iii) <i>Methi</i> (fenugru seeds), (iv) <i>Ajma</i> (ajwa), (v) <i>Kalingada</i> seeds, (vi) <i>Asalia</i> .	three paise in the rupee	three paise in the rupee.";

(17) in the entry at serial No. 192, in sub-entry (ii), in columns 3 and 4, for the words "fourteen paise in the rupee" the words "four paise in the rupee" shall be substituted;

(18) in the entry at serial No. 193, in columns 3 and 4, for the words "seven paise in the rupee", the words "four paise in the rupee" shall be substituted;

(B) in Part-B, entries at serial Nos. 3, 4, 5 and 6 shall be deleted.

**STATEMENT OF OBJECTS AND REASONS**

This Bill seeks to amend the Gujarat Sales Tax Act, 1969 with a view to giving effect to the proposals contained in the Budget Speech of the Finance Minister in the Legislative Assembly on 21st June, 1995. An opportunity is also taken -

- (i) to amend section 16 as a consequence of the amendment made in section 12 by Guj. Act No. 10 of 1994 so as to allow full set-off of tax levied or leviable against purchase tax under section 16;
- (ii) to amend entries Nos, 14, 41 and 89 in Schedule-I with a view to clarifying the intention underlying the said entries.

This Bill seeks to achieve the aforesaid objects.

**SURESH MEHTA.**

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative power in the following respect :—

*Clause 1.* - Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid, is necessary and is of a normal character.

Dated the 20th July, 1995.

SURESH MEHTA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 20th July, 1995.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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 may be filed as a separate compilation.

**PART V**

**Bill Introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE BOMBAY LAND REVENUE (GUJARAT SECOND AMENDMENT) BILL, 1995.**

**GUJARAT BILL NO. 22 OF 1995.**

*A BILL*

*further to amend the Bombay Land Revenue Code, 1879.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Land Revenue (Gujarat Second Amendment) Act, 1995.

Short  
title and  
commen-  
cement.

(2) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In the Bombay Land Revenue Code, 1879 (hereinafter referred to as "the principal Act"), in Chapter XB, for the words "village accountant" wherever they occur, the words "competent authority" shall be substituted.

Amend-  
ment of  
Chapter  
XB of  
Bom. V  
of 1879.

3. In the principal Act, in Chapter XB, after the heading "OF THE AGRICULTURIST PASS BOOK" but before section 135M, the following new section shall be inserted, namely:—

Insertion  
of new  
section  
135 LL  
in Bom.  
V of 1879.

Bom.  
V of  
1879.



Applica-  
tion.

"135LL. (1) This chapter shall apply to such taluka in a district as the State Government may, by notification in the *Official Gazette*, specify.

(2) This chapter shall cease to apply to such taluka in a district as the State Government may, by notification in the *Official Gazette*, specify.

(3) This chapter shall re-apply to such taluka in a district as the State Government may, by notification in the *Official Gazette*, specify."

Amend-  
ment of  
section  
135M of  
Bom. V of  
1879.

4. In the principal Act, in section 135M,—

(1) in sub-section (1), for the words "for which a village accountant is appointed", the words, brackets and figures "in a taluka to which this Chapter is applied under sub-section (1) or re-applied under sub-section (3) of section 135LL and for which a competent authority is appointed" shall be substituted;

(2) for sub-section (2), the following shall be substituted, namely;—

"(2)(a) The agriculturist pass-book shall be supplied to the agriculturist holding land in a taluka to which this Chapter is applied under sub-section (1) or re-applied under sub-section (3) of section 135LL.

(b) The pass-book shall be supplied under clause (a)—

(i) within such period from the date on which this Chapter is applied or re-applied to the taluka as the State Government may, by notification in the *Official Gazette*, specify; and

(ii) on payment of such fees as may be prescribed by rules made under this Act;

(c) The duplicate agriculturist pass-book shall be retained by the competent authority."

Amend-  
ment of  
section  
135N of  
Bom. V of  
1879.

5. In the principal Act in section 135N, in the Explanation,—

(1) for the words, figures and letter "and section 135O", the words, figures and letters "and sections 135O and 135R" shall be substituted;

(2) in clause (iv), after the figures "1970", the words, brackets and figures "or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980" shall be inserted,

(3) after clause (ix), the following clauses shall be inserted, namely:—

"(ixa) a co-operative society registered under the Gujarat Co-operative Societies Act, 1961;

(ixb) a panchayat constituted under the Gujarat Panchayats Act, 1993."

40 of  
1980.

Guj. 10  
of 1962.

Guj. 18  
of 1993.

insertion  
of new  
sections  
135 OO  
and 135000  
in Bom.  
V of 1879.

6. In the principal Act, after section 135 O, the following new sections shall be inserted, namely:—

"135 00. (1) No document of transfer of any agricultural land by sale, purchase, gift, mortgage whether with or without possession, exchange, partition, lease, surrender or otherwise shall be registered by any registering authority in a taluka to which this Chapter is applied under sub-section (1) or re-applied under sub-section (3) of section 135 LL unless such document is accompanied by the agriculturist pass-book relating to such land.

(2) The registering authority shall after registering such document make necessary entries in the agriculturist pass-book of the agriculturist and thereafter return the pass-book to the agriculturist.

(3) The registering authority shall make report in writing of such registration to the competent authority.

135 000. The competent authority shall be responsible to keep, the agriculturist pass-book and the duplicate agriculturist pass-book retained by it, up-to-date by making necessary entries therein as provided in sections 135P and 135Q, respectively."

7. In the principal Act, for section 135P, the following shall be substituted, namely:—

"135P. Whenever entries are transferred from the register of mutations to the record of rights under section 135D, the competent authority shall call for the agriculturist pass-book from the concerned agriculturist and thereupon the agriculturist shall produce the agriculturist pass-book before the competent authority within such period as may be prescribed by rules made under this Act and on such production of pass-book, the competent authority shall make entries therein, corresponding to those in the record of rights and keep such pass-book up-to-date."

8. In the principal Act, for section 135R including the Explanation thereunder, the following shall be substituted, namely:—

"135R. A certified copy of any entry not being an entry made by a bank or registering authority in—

(a) the duplicate agriculturist pass-book maintained by the competent authority, or

(b) the agriculturist pass-book of the agriculturist,

shall in all legal proceedings be received as *prima facie* evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded to the same extent as the original entry itself in the record of rights but not further or otherwise."

9. In the principal Act, in Chapter XB, after section 135R, the following sections and Explanation shall be added, namely:—

Document for re-registration of transfer of agricultural land to accompany the agriculturist pass-book.

Responsibility of competent authority.

Substitution of section 135P of Bom. V of 1879.

Agriculturists pass-book to be kept up-to-date.

Substitution of section 135R of Bom. V of 1879.

Mode of proof of entries in agriculturist pass-book.

Insertion of new sections and Explanation in Chapter XB of Bom. V of 1879.

Penalty  
for  
contraven-  
tion of  
section  
135P.

"135S. Any agriculturist who contravenes the provision of section 135P shall be punished with fine which may extend to two hundred rupees.

Penalty  
for  
unauthori-  
sed alter-  
ation in  
pass-  
book or  
furnish-  
ing false  
infor-  
mation.

135T. Any person who unauthorisely makes, alters or deletes any entry in the pass-book or furnishes false information to the competent authority in relation to the pass-book shall be punished with fine which may extend to one thousand rupees.

*Explanation.*—For the purposes of this Chapter,—

(i) the expression 'agriculturist' means land holder who holds land for the purpose of agriculture;

(ii) the expression 'competent authority' means such revenue officer as the State Government may, by notification in the *Official Gazette*, appoint;

(iii) the expression 'registering authority' means the registering officer appointed under the Registration Act, 1908.

XVI  
of 1908.

Amend-  
ment of  
section  
214 of  
Bom. V.  
of 1879.

10. In the principal Act, in section 214, in sub-section (2), [after clause (u), the following clause shall be added, namely:—

"(v) regulating the supply of agriculturist pass-book."

## STATEMENT OF OBJECTS AND REASONS

On gaining experience, it is considered necessary to amend Chapter XB of the Bombay Land Revenue Code, 1879 relating to the agriculturist pass-book with a view to—

- (i) providing for application of the Chapter gradually in the State, taluka wise;
- (ii) providing for supply of pass-books to the agriculturists in a taluka within prescribed period from the date of application of the Chapter to a taluka;
- (iii) providing for making necessary entries in agriculturist pass-book by the officer registering document of any transfer of land;
- (iv) fixing the responsibility of the competent authority to keep the agriculturist pass-book up-to-date by making the necessary entries therein;
- (v) providing evidenciary value to the entries made by the competent authority in the agriculturist pass-book;
- (vi) making unauthorised alteration in the pass-book and giving false information to competent authority as offences and prescribing penalties therefor;
- (vii) replacing the village accountant which is the implementing officer by the competent authority.

VAJUBHAI VALA.

RECEIVED BY THE SECRETARY TO THE GOVERNMENT

## FINANCIAL MEMORANDUM

New sub-section (2) of section 135M sought to be substituted by sub-clause (2) of clause 4 of the Bill provides for supply of agriculturist pass-book to an agriculturist holding agricultural land in a taluka to which Chapter XB is made applicable, on payment of such fees as may be prescribed by rules. It is intended to apply the provisions of Chapter XB gradually in the State, taluka-wise. Initially it is intended to apply the provisions of Chapter XB to only three different talukas in the State. The provisions of the said sub-section (2), if enacted and brought into force initially in three different talukas, would involve an estimated expenditure of one crore rupees from the Consolidated Fund of the State. The said expenditure would be of a non-recurring nature. The expenditure incurred for supplying the pass-books would be partially recovered from fees paid for supply of the agriculturists pass-books.

VAJUBHAI VALA.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects :--

*Clause 1.*--Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the remaining provisions of the Act shall come into force.

*Clause 3.*--Sub-sections (1), (2) and (3) of new section 135LL sought to be inserted by this clause empowers the State Government to apply or to discontinue application or to re-apply by notification in the *Official Gazette*, Chapter XB to or in such taluka of a district as may be specified in such notification.

*Clause 4.*—(i) Clause (b) of sub-section (2) proposed to be substituted by sub-clause (2) of this clause empowers the State Government to specify by notification in the *Official Gazette*, the period from the date of application of Chapter XB within which an agriculturist pass-book shall be supplied to the agriculturist.

(ii) Sub-clause (ii) of clause (b) of the said sub-section (2) empowers the State Government to prescribe by rules the fees to be paid by the agriculturist for the pass-book supplied to him.

*Clause 7.*--Section 135P sought to be substituted by this clause empowers the State Government to prescribe by rules the period within which the agriculturist shall produce the agriculturist pass-book before the competent authority.

*Clause 9.*--Clause (ii) of the Explanation sought to be inserted by this clause empowers the State Government to appoint, by notification in the *Official Gazette*, a revenue officer to be a competent authority.

*Clause 10.*--Clause (v) sought to be added in sub-section (2) of section 214 by this clause empowers the State Government to regulate by rules the supply of agriculturist pass-book.

The delegation of legislative powers as proposed is necessary and is of a normal character.

Dated the 20th July, 1995.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat.  
Legislative and Parliamentary Affairs Department.



**The Gujarat Government Gazette**  
**EXTRAORDINARY**  
 PUBLISHED BY AUTHORITY

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THURSDAY, JULY 20, 1995/ASADHA 29, 1917

Separate paging is given to this Part in order that it  
 may be filed as a Separate Compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*.  
 The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules.—

**THE GUJARAT APPROPRIATION BILL, 1995.**

**GUJARAT BILL NO. 23 OF 1995.**

**A BILL**

*to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 1996.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Appropriation Act, 1995. Short title.
2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of seven thousand seven hundred eighty-four crores, twenty-one lakhs, eighteen thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1995-96, in respect of the services and purposes specified in column 2 of the schedule. Withdrawal of Rs. 77,84,21,18,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 1995-96.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.



## THE SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropri- ation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
1	Agriculture, Co-operation and Rural Development Department	Revenue 1,68,32,000	..	1,68,32,000
2	Agriculture	Revenue 2,61,87,26,000 Capital 3,36,66,000	.. ..	2,61,87,26,000 3,36,66,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue 28,37,90,000 Capital 61,67,000	.. ..	28,37,90,000 61,67,000
4	Animal Husbandry and Dairy Development	Revenue 28,35,76,000 Capital 2,67,000	.. ..	28,35,76,000 2,67,000
5	Co-operation	Revenue 12,86,85,000 Capital 10,54,89,000	.. ..	12,86,85,000 10,54,89,000
7	Education Department	Revenue 96,77,000	..	96,77,000
8	Education	Revenue 11,68,80,73,000 Capital 3,55,000	31,80,67,000 ..	12,00,61,40,000 3,55,000
9	Other Expenditure pertaining to Education Department	Revenue 3,34,76,000	..	3,34,76,000
10	Energy and Petrochemicals Department	Revenue 39,33,000	..	39,33,000
11	Tax collection charges (Energy and Petrochemicals Department)	Revenue 2,04,00,000	..	2,04,00,000
12	Energy Projects	Revenue 2,62,94,40,000 Capital 2,14,33,00,000	.. ..	2,62,94,40,000 2,14,33,00,000
13	Other Expenditure pertaining to Energy and Petro- Chemicals Department	Capital 2,00,00,000	..	2,00,00,000
14	Finance Department	Revenue 2,02,17,000 Capital 2,71,000	.. ..	2,02,17,000 2,71,000

No. of Vote/ Appropri- ation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
15	Tax collection charges. (Finance Department)	Revenue	21,29,73,000	..	21,29,73,000
16	Treasury and Accounts Administration	Revenue	13,79,46,000	..	13,79,46,000
17	Pensions and other Retirement Benefits	Revenue	2,30,18,33,000	6,67,000	2,30,25,00,000
18	Other Expenditure pertain- ing to Finance Department	Revenue	4,29,68,53,000	..	4,29,68,53,000
		Capital	16,67,000	66,000	17,33,000
19	Repayment of Debt pertain- ing to Finance Department and it's servicing	Revenue	..	8,02,16,06,000	8,02,16,06,000
		Capital	..	4,37,52,47,000	4,37,52,47,000
20	Food and Civil Supplies Department	Revenue	2,20,28,000	..	2,20,28,000
21	Civil Supplies	Revenue	1,21,97,92,000	..	1,21,97,92,000
		Capital	67,000	..	67,000
22	Food	Revenue	4,74,69,000	..	4,74,69,000
		Capital	35,95,000	..	35,95,000
24	Forest and Environment Department	Revenue	44,13,000	50,000	44,63,000
25	Forests	Revenue	39,01,32,000	..	39,01,32,000
		Capital	28,30,73,000	..	28,30,73,000
26	Environment	Revenue	1,25,00,000	25,000	1,25,25,000
28	Governor	Revenue	..	60,80,000	60,80,000
29	Council of Ministers	Revenue	1,89,83,000	..	1,89,83,000
30	Elections	Revenue	18,33,71,000	..	18,33,71,000
31	Public Service Commission	Revenue	29,67,000	93,44,000	1,23,11,000
32	General Administration Department	Revenue	7,10,54,000	52,000	7,11,06,000
33	Economic Advice and Statistics	Revenue	3,33,65,000	..	3,33,65,000

No. of Vote/ Appropri- ation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
34	Other Expenditure pertaining to General Administration Department	Revenue	20,98,08,000	..	20,98,08,000
35	State Legislature	Revenue	2,80,36,000	2,67,000	2,83,03,000
37	Health and Family Welfare Department	Revenue	1,39,51,000	..	1,39,51,000
38	Medical and Public Health	Revenue	2,29,74,39,000	1,16,000	2,29,75,55,000
39	Family Welfare	Revenue	45,08,52,000	4,48,000	45,13,00,000
40	Water Supply	Revenue	38,92,43,000	..	38,92,43,000
		Capital	1,16,50,51,000	..	1,16,50,51,000
41	Other Expenditure pertain- ing to Health and Family Welfare Department	Revenue	44,46,53,000	..	44,46,53,000
42	Home Department	Revenue	1,31,58,000	..	1,31,58,000
43	Police	Revenue	2,37,10,63,000	..	2,37,10,63,000
44	Jails	Revenue	8,24,95,000	..	8,24,95,000
45	Transport	Revenue	58,69,65,000	..	58,69,65,000
46	Other Expenditure pertain- ing to Home Department	Revenue	15,62,85,000	1,00,000	15,63,85,000
		Capital	7,97,42,000	..	7,97,42,000
47	Industries and Mines Department	Revenue	81,85,000	..	81,85,000
48	Stationery and Printing	Revenue	16,52,73,000	..	16,52,73,000
49	Industries	Revenue	60,11,13,000	..	60,11,13,000
		Capital	1,51,59,83,000	..	1,51,59,83,000
50	Mines and Minerals	Revenue	6,97,07,000	..	6,97,07,000
51	Other Expenditure pertain- ing to Industries and Mines Department	Revenue	58,33,000	..	58,33,000
		Capital	50,00,000	..	50,00,000
52	Information, Broadcasting and Tourism Department	Revenue	22,80,000	..	22,80,000

No. of Vote/ Appropri- ation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
53	Information and Publicity	Revenue 11,19,43,000	..	11,19,43,000
		Capital 20,00,000	..	20,00,000
54	Tourism	Revenue 2,15,27,000	..	2,15,27,000
		Capital 17,67,000	..	17,67,000
55	Other Expenditure pertaining to Information, Broadcasting and Tourism Department	Revenue 1,04,39,000	..	1,04,39,000
56	Labour and Employment Department	Revenue 48,29,000	..	48,29,000
57	Labour and Employment	Revenue 37,76,57,000	..	37,76,57,000
		Capital 67,000	..	67,000
59	Legal Department	Revenue 69,37,000	..	69,37,000
		Capital 17,000	..	17,000
60	Administration of Justice	Revenue 27,20,47,000	4,06,10,000	31,26,57,000
61	Other Expenditure pertaining to Legal Department	Revenue 1,05,70,000	..	1,05,70,000
62	Legislative and Parliamentary Affairs Department	Revenue 56,63,000	..	56,63,000
64	Narmada and Water Resources Department	Revenue 1,43,50,000	..	1,43,50,000
65	Narmada Development Scheme	Capital 6,03,80,39,000	..	6,03,80,39,000
66	Irrigation and Soil Conservation	Revenue 3,75,42,86,000	10,86,000	3,75,53,72,000
		Capital 1,22,84,26,000	18,75,000	1,23,03,01,000
67	Other Expenditure pertaining to Narmada and Water Resources Department	Revenue 9,95,000	19,31,000	29,26,000
68	Panchayats and Rural Housing Department	Revenue 96,57,000	..	96,57,000

No. of Vote/ Appropri- ation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
69	Community Development	Revenue 59,52,95,000	..	59,52,95,000
70	Rural Housing	Revenue 22,43,73,000 Capital 3,39,67,000	37,04,07,000 ..	59,47,80,000 3,39,67,000
71	Compensation and Assignments	Revenue 13,69,52,000	..	13,69,52,000
72	Other Expenditure pertaining to Panchayats and Rural Housing Department	Revenue 7,22,87,000	..	7,22,87,000
73	Fisheries	Revenue 8,15,23,000 Capital 1,37,00,000	.. ..	8,15,23,000 1,37,00,000
74	Ports	Capital 4,80,17,000	..	4,80,17,000
75	Other Expenditure pertaining to Ports and Fisheries Department	Revenue 25,91,000	..	25,91,000
76	Revenue Department	Revenue 2,26,23,000	..	2,26,23,000
77	Tax collection charges (Revenue Department)	Revenue 21,42,53,000	..	21,42,53,000
78	District Administration	Revenue 21,42,73,000	4,50,000	21,47,23,000
79	Relief on account of natural calamities	Revenue 1,05,19,67,000 Capital 3,50,00,000	.. ..	1,05,19,67,000 3,50,00,000
80	Dang District	Revenue 9,52,60,000	..	9,52,60,000
81	Compensation and Assignments	Revenue 6,29,07,000 Capital 39,33,000	18,13,000 15,34,000	6,47,20,000 54,67,000
82	Other Expenditure pertaining to Revenue Department	Revenue 34,85,000 Capital 6,80,000	.. ..	34,85,000 6,80,000
83	Roads and Buildings Department	Revenue 1,62,80,000	..	1,62,80,000
84	Non-residential Buildings	Revenue 67,38,35,000 Capital 44,92,31,000	2,08,000 76,000	67,40,43,000 44,93,07,000

No. of Vote/ Appropri- ation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
85	Residential Buildings	Revenue	27,72,39,000	24,000	27,72,63,000
		Capital	11,85,20,000	..	11,85,20,000
86	Roads and Bridges	Revenue	1,65,45,29,000	3,55,000	1,65,48,84,000
		Capital	41,96,56,000	..	41,96,56,000
87	Gujarat Capital Construction Scheme	Revenue	1,80,97,000	..	1,80,97,000
		Capital	4,70,00,000	..	4,70,00,000
88	Other Expenditure pertaining to Roads and Buildings Department	Revenue	4,59,41,000	4,03,000	4,63,44,000
		Capital	33,33,000	..	33,33,000
89	Social Welfare and Tribal Development Department	Revenue	77,60,000	..	77,60,000
90	State Excise	Revenue	1,87,20,000	..	1,87,20,000
91	Social Security and Welfare	Revenue	71,17,38,000	20,00,000	71,37,38,000
		Capital	1,84,03,000	..	1,84,03,000
92	Welfare of Scheduled Tribes	Revenue	20,28,84,000	..	20,28,84,000
		Capital	37,43,000	..	37,43,000
94	Special Component Plan for Scheduled Castes	Revenue	97,77,13,000	..	97,77,13,000
		Capital	8,02,70,000	..	8,02,70,000
95	Tribal Area Sub Plan	Revenue	2,34,50,05,000	2,16,000	2,34,52,21,000
		Capital	72,59,84,000	..	72,59,84,000
96	Urban Development and Urban Housing Department	Revenue	50,13,000	..	50,13,000
97	Urban Housing	Revenue	5,68,45,000	9,07,10,000	14,75,55,000
		Capital	3,56,20,000	..	3,56,20,000
98	Urban Development	Revenue	47,95,67,000	..	47,95,67,000
		Capital	13,24,00,000	..	13,24,00,000
99	Compensation, Assignments and Tax Collection Charges	Revenue	20,29,00,000	4,67,35,000	24,96,35,000
100	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue	1,00,15,000	..	1,00,15,000



No. of Vote/ Appropri- ation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2.		3	
101	Youth Services and Cultural Activities Department	Revenue 23,49,000	..	23,49,000
102	Youth Services and Cultural Activities	Revenue 7,21,22,000	..	7,21,22,000
Total :		Revenue 49,74,60,84,000	8,91,37,70,000	58,65,98,54,000
		Capital 14,80,34,66,000	4,37,87,98,000	19,18,22,64,000
Grand Total		64,54,95,50,000	13,29,25,68,000	77,84,21,18,000

## STATEMENT OF OBJECTS AND REASONS

Article 204(1) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet —

(a) the grants so made by the Assembly, and

(b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the expenditure charged on the Consolidated Fund of this State for the financial year ending on the 31st March, 1996.

The amounts are shown below :—

Rs.

(a) Revenue Expenditure

58,65,98,54,000

(b) Capital Expenditure

19,18,22,64,000

Total ..

77,84,21,18,000

Dated the 20th July, 1995.

SURESH MEHTA

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 20th July, 1995.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*.  
 The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule  
 127A of the Gujarat Legislative Assembly Rules :-

**THE GUJARAT ENTERTAINMENTS TAX (AMENDMENT) BILL, 1995.**

**GUJARAT BILL NO. 24 OF 1995.**

*A BILL*

*further to amend the Gujarat Entertainments Tax Act, 1977.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as  
 follows :—

- Short title and com-  
mence-  
ment.
1. (1) This Act may be called the Gujarat Entertainments Tax (Amendment) Act, 1995.
  - (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

- Amend  
ment of  
section 2  
of Guj.  
16 of  
1977.
2. In the Gujarat Entertainments Tax Act, 1977 (hereinafter referred to as 'the principal Act'), in section 2, for clause (i), the following shall be substituted, namely:—
  - "(i) 'prescribed officer' means such officer as may be prescribed;"

Guj. 16 of  
1977.

Amendment  
of section 6B  
of Guj. 16 of  
1977.

3. In the principal Act, in section 6B, for sub-sections (1) and (2), the following shall be substituted, namely :--

"(1) Notwithstanding anything contained in section 3, 4, 6 or 6A of this Act, where the proprietor provides entertainment by way of maintenance or operation of cable connections, there shall be levied and paid by every proprietor, to the State Government, for exhibition of films or moving pictures or series of pictures or serials or any other programme with the aid of any type of antenna or cable television, a tax at the following rates, namely :—

	For urban area.	For other area.
(a) in case of such cable connections not exceeding one hundred.	Rs. 1,000 per month	Rs. 450 per month.
(b) in case of such cable connections exceeding one hundred.	Rs. 1,000 plus Rs. 500 for every additional fifty connections or any part thereof, per month	Rs. 450 plus Rs. 225 for every additional fifty connections or any part thereof, per month.

(2) Where such numbers of cable connections increase in any quarter during the financial year, the proprietor shall be liable to pay the tax at the rates specified under sub-section (1) for such quarter."

Amendment  
of section 6C  
of Guj. 16 of  
1977.

4. In the principal Act, in section 6 C,---

(1) for the word "Collector of Entertainments Tax", occurring at three places, the words "prescribed officer" shall be substituted;

(2) in sub-section (3), the words "of the district where the place of entertainment is situate" shall be deleted.

Amendment  
of section  
6D of Guj.  
16 of 1977.

5. In the principal Act, in section 6D, for the words "Collector of Entertainments Tax", the words "prescribed officer" shall be substituted.

Amendment  
of section 12  
of Guj. 16 of  
1977.

6. In the principal Act, in section 12, in sub-section (1), for the words "Collector of Entertainments Tax", the words "prescribed officer" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat Entertainments Tax Act, 1977 with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Legislative Assembly on 21st June, 1995.

Under the existing system of the levy of tax, certain administrative difficulties are faced by the State Government in collection of tax on entertainment provided through cable connection and the proprietors are taking undue advantage of such system. Consequently, the Government loses its revenue. In order to bring more revenue to the State Exchequer and to leave no scope for evasion of tax, it is proposed to make the proprietor liable to pay tax, when he provides entertainment by way of maintenance or operation of cable connection with the aid of any type of antenna or cable television, at the rate of Rs. 1,000/- per month upto one hundred cable connections for urban area and Rs. 450/- per month upto one hundred cable connections, for other area. Where such cable connections exceed one hundred, for every additional fifty cable connections or any part thereof, Rs. 500/- per month for urban area and Rs. 225/- per month for other area, is proposed to be levied.

Under the existing provisions of the Act, the Collector of Entertainments Tax is empowered to issue a Certificate of Registration for providing such entertainment. Since, such type of entertainments is expanding rapidly in rural areas too, it is proposed to empower the prescribed officer to issue such Certificate of Registration for the convenience of the proprietors. Accordingly, the provisions of sections 6C, 6D and 12 of the Act are proposed to be amended.

This Bill seeks to achieve the aforesaid objects.

KESHUBHAI PATEL

## MEMORANDUM REGARDING DELEGATED LEGISLATION.

This Bill involves delegation of legislative powers in the following respects :—

*Clause 1.*—Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

*Clause 2.*—Clause (i) of section 2 proposed to be substituted by this clause empowers the State Government to prescribe an officer to be the Prescribed Officer.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 20th July, 1995.

KESHUBHAI PATEL

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 20th July, 1995.

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GOVERNMENT CENTRAL PRESS, GANDHINAGAR.





# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

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THURSDAY, JULY 20, 1995/ASADHA 29, 1917

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

### PART V

#### Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*.  
The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules.—

#### THE BOMBAY COURT-FEES (GUJARAT AMENDMENT) BILL, 1995.

#### GUJARAT BILL NO. 25 OF 1995.

#### A BILL

*further to amend the Bombay Court-fees Act, 1959.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Court-fees (Gujarat Amendment) Act, 1995.

Short title  
and commence-  
ment.

- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

B o m .  
XXXVI  
of 1959

2. In the Bombay Court-fees Act, 1959 (hereinafter referred to as "the principal Act"), in section 6, in clause (iv), in sub-clause (j), for the words "thirty rupees", the words "two hundred rupees" shall be substituted.

Amendment of  
section 6 of  
Bom. XXXVI  
of 1959.

3. In the principal Act, in Schedule I,—

- (1) for Article 1, the following shall be substituted, namely:—

Amendment of  
Schedule I to  
Bom. XXXVI  
of 1959.

1	2	3
"1. Complaint or memorandum of appeal (not otherwise provided for in this Act) or of cross objection presented to any Civil or Revenue Court.	..	As per rate specified in the Table annexed at the end of this Schedule.";

(2) in Article 15, in column 3, for the words "fifteen rupees", the words "fifty rupees" shall be substituted;

(3) in Article 16, in column 3, for the words "fifty rupees", the words "two hundred rupees" shall be substituted;

(4) in Article 17, in column 3, for the words "fifty rupees", the words "two hundred rupees" shall be substituted;

(5) for the existing Table appearing after Article 17, the following shall be substituted, namely :—

TABLE  
(See Article 1 of Schedule I)  
Table of rates of *ad valorem* fees leviable on institution of suits, etc.

When the amount or value of the subject matter in dispute exceeds	But does not exceed	Proper court fee.
(1)	(2)	(3)
Rs.	Rs.	Rs.
...	15,000	2.5% On claim amount.
15,000	15,500	1135
15,500	16,000	1170
16,000	16,500	1205
16,500	17,000	1240
17,000	17,500	1275
17,500	18,000	1310
18,000	18,500	1345
18,500	19,000	1380
19,000	19,500	1415
19,500	20,000	1450
20,000	21,000	1495
21,000	22,000	1540
22,000	23,000	1585
23,000	24,000	1630
24,000	25,000	1675
25,000	26,000	1720
26,000	27,000	1765
27,000	28,000	1810
28,000	29,000	1855
29,000	30,000	1900

(1)	(2)	(3)
30,000	32,000	1960
32,000	34,000	2020
34,000	36,000	2080
36,000	38,000	2140
38,000	40,000	2200
40,000	42,000	2260
42,000	44,000	2320
44,000	46,000	2380
46,000	48,000	2440
48,000	50,000	2500
50,000	55,000	3300
55,000	60,000	3600
60,000	65,000	3900
65,000	70,000	4200
70,000	75,000	4500
75,000	80,000	5200
80,000	85,000	5525
85,000	90,000	5850
90,000	95,000	6175
95,000	1,00,000	6500
1 lakh	2 lakhs	15,000
2 lakhs	3 lakhs	22,500
3 lakhs	4 lakhs	30,000
4 lakhs	5 lakhs	37,500
5 lakhs	6 lakhs	45,000
6 lakhs	7 lakhs	52,500
7 lakhs	8 lakhs	60,000
8 lakhs	9 lakhs	67,500
9 lakhs	10 lakhs	75,000
10 lakhs	11 lakhs	77,000
11 lakhs	12 lakhs	84,000
12 lakhs	13 lakhs	91,000
13 lakhs	14 lakhs	98,000
14 lakhs	15 lakhs	1,05,000
15 lakhs	16 lakhs	1,12,000
16 lakhs	17 lakhs	1,19,000
17 lakhs	18 lakhs	1,26,000
18 lakhs	19 lakhs	1,33,000
19 lakhs	20 lakhs	1,40,500
20 lakhs	21 lakhs	1,41,000
21 lakhs	22 lakhs	1,43,000
22 lakhs	23 lakhs	1,49,500
23 lakhs	24 lakhs	1,56,000
24 lakhs	25 lakhs	1,62,500
25 lakhs	26 lakhs	1,69,000
26 lakhs	27 lakhs	1,75,500
27 lakhs	28 lakhs	1,82,000
28 lakhs	29 lakhs	1,88,500
29 lakhs	30 lakhs	1,95,000
30 lakhs	31 lakhs	1,95,300
31 lakhs	32 lakhs	1,96,800
32 lakhs	33 lakhs	1,98,000
33 lakhs	34 lakhs	2,04,000
34 lakhs	35 lakhs	2,10,000
35 lakhs	36 lakhs	2,16,000

(1)	(2)	(3)
36 lakhs	37 lakhs	2,22,000
37 lakhs	38 lakhs	2,28,000
38 lakhs	39 lakhs	2,34,000
39 lakhs	40 lakhs	2,40,000
40 lakhs	41 lakhs	2,41,900
41 lakhs	42 lakhs	2,43,600
42 lakhs	43 lakhs	2,45,100
43 lakhs	44 lakhs	2,46,400
44 lakhs	45 lakhs	2,47,500
45 lakhs	46 lakhs	2,53,000
46 lakhs	47 lakhs	2,58,500
47 lakhs	48 lakhs	2,64,000
48 lakhs	49 lakhs	2,69,500
49 lakhs	50 lakhs	2,75,000
50 lakhs	51 lakhs	2,75,400
51 lakhs	52 lakhs	2,75,600
52 lakhs	53 lakhs	2,78,250
53 lakhs	54 lakhs	2,80,800
54 lakhs	55 lakhs	2,83,250
55 lakhs	56 lakhs	2,85,600
56 lakhs	57 lakhs	2,87,850
57 lakhs	58 lakhs	2,90,000
58 lakhs	59 lakhs	2,95,000
59 lakhs	60 lakhs	3,00,000
60 lakhs	61 lakhs	3,01,950
61 lakhs	62 lakhs	3,03,800
62 lakhs	63 lakhs	3,05,550
63 lakhs	64 lakhs	3,07,200
64 lakhs	65 lakhs	3,08,750
65 lakhs	66 lakhs	3,10,200
66 lakhs	67 lakhs	3,11,550
67 lakhs	68 lakhs	3,12,800
68 lakhs	69 lakhs	3,13,950
69 lakhs	70 lakhs	3,15,000
70 lakhs	71 lakhs	3,15,950
71 lakhs	72 lakhs	3,16,800
72 lakhs	73 lakhs	3,17,550
73 lakhs	74 lakhs	3,18,200
74 lakhs	75 lakhs	3,18,750
75 lakhs	76 lakhs	3,19,200
76 lakhs	77 lakhs	3,19,550
77 lakhs	78 lakhs	3,19,800
78 lakhs	79 lakhs	3,19,950
79 lakhs	80 lakhs	3,20,000
80 lakhs	81 lakhs	3,22,380
81 lakhs	82 lakhs	3,25,540
82 lakhs	83 lakhs	3,27,850
83 lakhs	84 lakhs	3,29,280
84 lakhs	85 lakhs	3,31,500
85 lakhs	86 lakhs	3,33,680
86 lakhs	87 lakhs	3,35,820
87 lakhs	88 lakhs	3,37,040
88 lakhs	89 lakhs	3,38,200
89 lakhs	90 lakhs	3,40,200
90 lakhs	91 lakhs	3,42,160

(1)	(2)	(3)
91 lakhs	92 lakhs	3,44,080
92 lakhs	93 lakhs	3,45,960
93 lakhs	94 lakhs	3,47,800
94 lakhs	95 lakhs	3,48,650
95 lakhs	96 lakhs	3,49,440
96 lakhs	97 lakhs	3,50,170
97 lakhs	98 lakhs	3,52,800
98 lakhs	99 lakhs	3,53,430
99 lakhs	One crore	3,55,000

and thereafter the court fees shall be increased at the rate of rupees two thousand for every additional one lakh rupees or part thereof.

4. In the principal Act, in the schedule II,—

Amendment of  
Schedule II to  
Bom. XXXVI  
of 1959.

(1) in Article 1, in column 3,—

(a) for the words "Twenty naye paise", the words "One rupee" shall be substituted;

(b) for the words "Thirty-five naye paise", the words "One rupee" shall be substituted;

(c) for the words "Sixty-five naye paise", the words "Two rupees" shall be substituted;

(d) for the words "One rupee", the words "Five rupees" shall be substituted;

(e) for the words "Two rupees fifty naye paise", the words "Five rupees" shall be substituted;

(f) for the words "Fifty rupees", the words "Five hundred rupees" shall be substituted;

(g) for the words "Twenty rupees", the words "Two hundred rupees" shall be substituted;

(h) for the words "Five rupees", the words "Fifty rupees" shall be substituted;

(2) in Article 2, in column 3, for the words "Ten rupees", the words "Fifty rupees" shall be substituted;

(3) in Article 3, in column 3, for the words "Two rupees", the words "Five rupees" shall be substituted;

(4) in Article 4, in column 3, for the words "Fifty naye paise", the words "One rupee" shall be substituted;

(5) in Article 7, in column 3, for the words "One rupee", the words "Five rupees" shall be substituted;

V of (6) in Article 9,—  
1898.

2 of (a) in column 1, for the words and figures "Code of Criminal Procedure,  
1974. 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted;

(b) in column 3, for the words "One rupee twenty-five naye paise", the words "Two rupees" shall be substituted.

(7) in Article 10, in column 3, for the words "Twenty-five naye paise", the words "One rupee" shall be substituted;

(8) in Article 11, in column 3, for the words "One rupee twenty- five naye paise", the words "Three rupees" shall be substituted;

(9) in Article 12, in column 3,--

(a) for the words "One rupee", the words "Two rupees" shall be substituted;

(b) for the words "Two rupees", the words "Three rupees" shall be substituted;

(c) for the words "Four rupees", the words "Five rupees" shall be substituted;

(10) in Article 13, in column 3,--

(a) for the words "One rupee", the words "Two rupees" shall be substituted;

(b) for the words "Two rupees and fifty naye paise", the words "Ten rupees" shall be substituted;

(c) for the words "Five rupees", the words "Fifteen rupees" shall be substituted;

(11) in Article 14, in column 3,--

(a) for the words "Ten rupees", the words "Twenty rupees" shall be substituted;

(b) for the words "Twelve rupees fifty naye paise", the words "Fifty rupees" shall be substituted;

(12) in Article 15, in column 3, for the words "Fifty naye paise", the words "One rupee" shall be substituted;

(13) in Article 16, in column 3,--

(a) for the words "Five rupees", the words "Ten rupees" shall be substituted;

(b) for the words "One rupee", the words "Five rupees" shall be substituted;

(14) in Article 17, in column 3, for the words "Thirty-seven rupees fifty naye paise", the words "Fifty rupees" shall be substituted;

(15) in Article 18, in column 3,--

(a) for the words "Fifteen rupees", the words "Fifty rupees" shall be substituted;



(b) for the words "Two rupees fifty naye paise", the words "Five rupees" shall be substituted;

(c) for the words "Six rupees twenty-five naye paise", the words "Ten rupees" shall be substituted;

(d) for the words "Twelve rupees fifty naye paise" occurring at three places, the words "Twenty rupees" shall be substituted;

(16) in Article 20, in column 3, for the words "Thirty-seven rupees fifty naye paise", the words "Forty rupees" shall be substituted;

(17) in Article 21, in column 3, for the words "Thirty-seven rupees fifty naye paise", the words "Forty rupees" shall be substituted;

(18) in Article 22, in column 3, for the words "Two rupees", the words "Five rupees" shall be substituted;

(19) in Article 23, in column 3,--

(a) for the words "Thirty-seven rupees fifty naye paise" occurring at four places, the words "Forty rupees" shall be substituted;

(b) for the words "Eighteen rupees seventy-five naye paise", the words "Twenty rupees" shall be substituted;

(c) for the words "Thirty rupees", the words "Two hundred rupees" shall be substituted;

(20) in Article 24, in column 3,--

(a) for the words "One rupee", the words "Two rupees" shall be substituted;

(b) for the words "Two rupees", the words "Five rupees" shall be substituted;

(21) in Article 25, in column 3,--

(a) for the words "Two rupees", the words "Five rupees" shall be substituted;

(b) for the words "Three rupees", the words "Five rupees" shall be substituted;

(c) for the words "Six rupees", the words "Ten rupees" shall be substituted;

(22) in Article 26, in column 3, for the words "One rupee twenty-five naye paise", the words "Two rupees" shall be substituted;

(23) in Article 27, in column 3, for the words "Sixty-five naye paise", the words "One rupee" shall be substituted;

(24) in Article 28, in column 3, for the words "Two rupees", the words "Five rupees" shall be substituted;

(25) in Article 29, in column 3, for the words "One rupee", the words "Two rupees" shall be substituted;

(26) in Article 30, in column 3, for the words "One rupee", the words "Two rupees" shall be substituted;

(27) in Article 31, in column 3, for the words "One rupee", the words "Two rupees" shall be substituted;

(28) in Article 32,--

IV of (a) in column 1, for the words, letters and figures "Chapter IV of the Motor  
1939. Vehicles Act, 1939" the words, letter and figures "Chapter V of the Motor  
59 of Vehicles Act, 1988" shall be substituted:  
1988.

(b) in column 3, for the words "Five rupees", the words "Ten rupees" shall be substituted;

(29) in Article 33,--

(a) in column 1, the brackets and words "(of Ahmedabad)" shall be deleted;

(b) in column 3,--

(i) for the words "Ten rupees", the words "Fifty rupees" shall be substituted;

(ii) for the words "Fifty rupees", the words "One hundred rupees" shall be substituted;

(iii) for the words "One hundred rupees", the words "Five hundred rupees" shall be substituted;

(30) in Article 34, in column 3,--

(a) for the words "Fifty rupees", the words "One hundred rupees" shall be substituted;

(b) for the words "Ten rupees", the words "Twenty rupees" shall be substituted;

(31) in Article 35, in column 3,--

(a) for the words "Two rupees fifty naye paise" occurring at two places, the words "Ten rupees" shall be substituted;

(b) for the words "Five rupees", the words "Ten rupees" shall be substituted;

(c) for the words "One rupee", the words "Ten rupees" shall be substituted;

(32) in Article 36, in column 3, for the words "Five rupees", the words "Twenty rupees" shall be substituted;

(33) in Article 37,—

(a) in column 1, for the words and figures "Code of Criminal Procedure V of 1898.  
Code, 1898", the words and figures "Criminal Procedure Code, 1973" shall 2 of 1974.  
be substituted;

(b) in column 3, for the words "One rupee", the words "Ten rupees" shall be substituted;

(34) after Article 38, the following new Article shall be added, namely :—

1	2	3
"39. Application for adjournment presented to the Court in any proceedings.	..	Five rupees".

### STATEMENT OF OBJECTS AND REASONS

As per the Budget Speech of the Finance Minister in the Legislative Assembly on the 21st June, 1995, it is proposed to increase the rates of Court-fees which are not revised since the enactment of the Bombay Court-fees Act, 1959. While revising the rates of court fees, the ideal concept of free justice is tried to be balanced against the stark realities of constraints of finance and the principles enunciated by the Supreme Court in the case of *P. M. Ashwantharayan Shetty v/s State of Karnataka and others* (AIR 1989 SC 100) are kept in view. Over the years, litigation in Courts has been increasing innumerable and as a result thereof, expenses on administration of justice have increased many-fold. With a view to meeting with the expenditure of administration of justice and to provide better services, it is considered necessary to enhance the rates of fees leviable on the various subject matters under the Act. Utmost care has been taken for small claimants keeping in view the fact that those who have less in life should have more in law. Therefore, the court fees leviable for claims upto Rs. 15,000/- has been reduced to the extent of 60 to 65 percentage. The existing rates of Court-fees for the claim from Rs. 15,000/- to Rs. 50,000/- has not been increased. By revising these rates, approximately 40 to 45 percentage of the expenditure of the administration of justice would be met out from such court fees.

This Bill seeks to achieve the aforesaid object.

SURESH MEHTA.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative power in the following respect:—

*Clause 1.-* Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid, is necessary and is of a normal character.

Dated the 20th July, 1995.

SURESH MEHTA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 20th July, 1995.



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Separate paging is given to this Part in order that it  
 may be filed as a Separate Compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*.  
 The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule  
 127A of the Gujarat Legislative Assembly Rules.—

**THE BOMBAY MOTOR VEHICLES TAX (GUJARAT AMENDMENT)**  
**BILL, 1995.**

**GUJARAT BILL NO. 26 OF 1995.**

**A BILL**

*further to amend the Bombay Motor Vehicles Tax Act, 1958.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows:—

- Short title and commencement. 1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1995.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

- Amendment of section 2 of B o m . LXV of 1958. 2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as "the principal Act"), in section 2,—
- (1) after clause (2), the following new clause shall be inserted, namely:—
- B o m . LXV of 1958.

"(2A) 'half year' means a period of six months commencing on the first day of the month in which a motor vehicle is registered or a new registration mark is assigned to it under the Motor Vehicles Act, 1988 and the term 'half yearly' shall be construed accordingly;"

59 of  
1988.

(2) for clause (4), the following shall be substituted, namely:-

"(4) 'quarter' means a period of three months commencing on the first day of the month in which a motor vehicle is registered or a new registration mark is assigned to it under the Motor Vehicles Act, 1988 and the term 'quarterly' shall be construed accordingly;"

59 of  
1988.

(3) for clause (9), the following shall be substituted, namely:—

"(9) 'year' in relation to a fleet owner, means the financial year and in any other case, a period of twelve months commencing on the first day of the month in which a motor vehicle is registered or a new registration mark is assigned to it under the Motor Vehicles Act, 1988;"

59 of  
1988.

Amendment of  
section 3A of  
Bom. LXV of  
1958.

3. In the principal Act, in section 3A,—

(1) in sub-section (1), in the Table,

(a) in entry 1, in column 2, for the letters and figures "Rs. 1500", the letters and figures "Rs. 3000" shall be substituted;

(b) in entry 2, in column 2, for the letters and figures "Rs. 2700", the letters and figures "Rs. 4000" shall be substituted;

(2) in sub-section (3), in clause (a),-

(a) for the letters and figures "Rs. 72", the letters and figures "Rs. 144" shall be substituted;

(b) for the letters and figures "Rs. 108", the letters and figures "Rs. 160" shall be substituted;

(3) in sub-section (5), in clause (a),-

(a) in sub-clause (i), for the words "three hundred seventy- five rupees", the words "seven hundred fifty rupees" shall be substituted;

(b) in sub-clause (ii), for the words "six hundred seventy-five rupees", the words "one thousand rupees" shall be substituted.

Amend  
ment of  
section  
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LXV of  
1958.

4. In the principal Act, in section 4,—

(1) in sub-section (1), for the words "of such motor vehicles", the words, brackets, figure and letters "of such motor vehicles to which sub-section (1AA) does not apply" shall be substituted;

(2) after sub-section (1A), the following new sub-section shall be inserted, namely:—

"(1AA) Notwithstanding anything contained in sub-section (1), the tax leviable under section 3 shall be paid in advance by every registered owner or any person having possession or control, of the following categories of vehicles, in the manner specified below, namely:—

Description of vehicles.	Manner of payment.
(a) the motor vehicles specified in clause III, under the heading 'A. Motor vehicles fitted solely with pneumatic tyres', in Part I, or a motor vehicle of like description falling in Part II, of the First Schedule.	Annually or in the case of half yearly, at the rate equal to one-half of the annual rate plus ten percentum thereof.
(b) the motor vehicles licensed to carry in all upto six passengers specified in clause IV, under the heading 'A. Motor vehicles fitted solely with pneumatic tyres', in Part-I, or a motor vehicle of like description falling in Part-II, of the said Schedule.	Annually."

Amend  
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LXV of  
1958.

5. In the principal Act, in the First Schedule, in Part-I, under the heading "A. Motor vehicles fitted solely with pneumatic tyres,—

(1) in clause III,—

(a) against entry (e), for the figures "1500", the figures "1700" shall be substituted;

(b) against entry (g), for the letters and figures "Rs. 125", the letters and figures "Rs. 150" shall be substituted;

(2) in clause VI, after entry (e), the following entry shall be inserted, namely :—

"(f) (i) Tractors whether or not fitted with any equipment such as rigs, cranes, compressors or projectors, exceeding 2250 KG. in weight, unladen; and	Rs. 1500 plus Rs. 200 for every additional 250 KG or part thereof, in excess of 2250 KG.
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- (ii) any motor vehicles exceeding 2250 KG in weight, unladen which are not intended to carry any passenger, goods or other load, and which are fitted with any equipment such as rigs, cranes, compressors or projectors, and are used for any special services or purposes".

Amendment  
of Second  
Schedule to  
Bom. LXV of  
1958.

6. In the principal Act, in the Second Schedule, in Part-I, under the heading "A. Motor vehicles fitted solely with pneumatic tyres",—

(1) in clause I, for entries (c), (d) and (e), the following shall be substituted, namely :—

"(c)	cycles exceeding 100 KG in weight, unladen.	3500
(d)	Tricycles	3500
(e)	Cycles or tricycles used for drawing a trailer or side-car	1000 in addition to the rates specified above."

(2) in clause III, for entries (a), (b) and (c), the following shall be substituted, namely :—

"(a)	Vehicles not exceeding 750 KG in weight, unladen	7000
(b)	Vehicles exceeding 750 KG in weight, unladen but not exceeding 1200 KG in weight, unladen.	12000
(c)	Vehicles exceeding 1200 KG in weight, unladen but not exceeding 2250 KG in weight, unladen.	20000".

Amendment of  
Third Schedule  
to Bom. LXV  
of 1958.

7. In the principal Act, in the Third Schedule, in Part-I, under the heading "A. Motor vehicles fitted solely with pneumatic tyres.",—

(1) for clause I, the following shall be substituted, namely :—

"I. Motor cycles and tricycles (including motor-scooters and cycles with attachment for propelling the same by mechanical power)---

(i) owned by an individual, a local authority, a public trust, a University or an educational or social welfare institution ---

Maximum rate of lump sum tax

	Cycles not exceeding 50 KG in weight, unladen.	Cycles exceeding 50 KG in weight, unladen, but not exceed- ing 100 KG in weight unladen.	Cycle excee- ding 100 KG in weight, unladen..	Tri cyc- les.	Cycles and Tricycles used for drawing trailer or side-car.
	Rs. (a)	Rs. (b)	Rs. (c)	Rs. (d)	Rs. (e)
					In addition to the rates specified in column (a), (b), (c) or (d)--
(i) not more than 2 years.	550/-	1400/-	3290/-	3290/-	960/-
(ii) more than 2 years but not more than 3 years.	500/-	1300/-	3080/-	3080/-	920/-
(iii) more than 3 years but not more than 4 years.	450/-	1200/-	2870/-	2870/-	880/-
(iv) more than 4 years but not more than 5 years.	400/-	1100/-	2660/-	2660/-	840/-
(v) more than 5 years but not more than 6 years.	350/-	1000/-	2450/-	2450/-	800/-
(vi) more than 6 years but not more than 7 years.	300/-	900/-	2240/-	2240/-	760/-
(vii) more than 7 years but not more than 8 years.	250/-	800/-	2030/-	2030/-	720/-
(viii) more than 8 years but not more than 9 years.	200/-	700/-	1820/-	1820/-	680/-
(ix) more than 9 years but not more than 10 years.	150/-	600/-	1610/-	1610/-	640/-

(x) more than 10 years but not more than 11 years.	100/- 500/-	1400/-	1400/-	600/-
(xi) more than 11 years but not more than 12 years.	60/- 400/-	1190/-	1190/-	560/-
(xii) more than 12 years but not more than 13 years.	60/- 300/-	980/-	980/-	520/-
(xiii) more than 13 years but not more than 14 years.	60/- 200/-	770/-	770/-	480/-
(xiv) more than 14 years.	60/- 100/-	560/-	560/-	440/-
(ii) owned by a person other than an individual, a local authority, a public trust, a University or an educational or social welfare institution.				Twice the rates specified above.";

(2) for clause III, the following shall be substituted, namely:--

"III. Motor vehicles other than those liable to tax under the foregoing provisions of this Schedule--

(i) owned by an individual, a local authority, a public trust, a University, or an educational or social welfare institution.

Maximum rate of lump sum tax

	Vehicles not exceeding 750 KG in weight, unladen.	Vehicles exceeding 750 KG in weight, unladen but not exceeding 1200 KG in weight, unladen.	Vehicles exceeding 1200 KG in weight, unladen but not exceeding 2250 KG in weight, unladen.
	Rs. (a)	Rs. (b)	Rs. (c)

If the vehicle is already registered and its age from the month of registration is---

(i) not more than 2 years.	6610	11400	19000
(iii) more than 2 years but not more than 3 years.	6220	10800	18000
(iii) more than 3 years but not more than 4 years.	5830	10200	17000
(iv) more than 4 years but	5440	9600	16000

	not more than 5 years.			
(v)	more than 5 years but not more than 6 years.	5050	9000	15000
(vi)	more than 6 years but not more than 7 years.	4660	8400	14000
(vii)	more than 7 years but not more than 8 years.	4270	7800	13000
(viii)	more than 8 years but not more than 9 years.	3880	7200	12000
(ix)	more than 9 years but not more than 10 years.	3490	6600	11000
(x)	more than 10 years but not more than 11 years.	3100	6000	10000
(xi)	more than 11 years but not more than 12 years.	2710	5400	9000
(xii)	more than 12 years but not more than 13 years.	2320	4800	8000
(xiii)	more than 13 years but not more than 14 years.	1930	4200	7000
(xiv)	more than 14 years.	1540	3600	6000
(ii)	owned by a person other than an individual, a local authority, a public trust, a University, or an educational or social welfare institution.	Twice the rates specified above."		

**STATEMENT OF OBJECTS AND REASONS**

As per the Budget Speech of the Finance Minister in the Legislative Assembly on 21st June, 1995, it is proposed to revise the tax imposed under the Bombay Motor Vehicles Tax Act, 1958. Accordingly, it is proposed to raise the rate of tax on the ordinary and luxury or tourist designated omni-buses. It is also proposed to increase the rate of tax on certain transport and non-transport vehicles specified in the First, Second and Third Schedules to the Act.

An opportunity is also taken to amend some of the provisions of the Act. Under the existing provisions of the Act, tax is levied quarterly and annually on certain vehicles. With a view to minimising the administrative work and ensuring the collection of tax effectively, it is proposed to levy tax half yearly and annually on certain vehicles. For that purpose sections 2 and 4 are proposed to be amended.

Previously, Tractors and other vehicles exceeding 2250 KG. in weight, unladen and which are not intended to carry any passenger and goods were registered as transport vehicles and taxed as goods vehicles. But the Government of India by its notification dated 19th June, 1992 has classified such vehicles as non-transport vehicles. Therefore, it is necessary to classify such vehicles at appropriate places by inserting entry (f) in clause VI, in Part-I, in the First Schedule to the Act.

This Bill seeks to achieve the aforesaid objects.

**C. K. RAULJI**

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respect:-

Clause 1.-Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid, is necessary and is of a normal character.

Dated the 24th July, 1995.

**C. K. RAULJI**

By order and in the name of the Governor of Gujarat,

**KUM. H. K. JHAVERI,**  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 24th July, 1995.

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GOVERNMENT CENTRAL PRESS, GANDHINAGAR.





# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

### PART V

#### **Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*.  
The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

#### **THE GUJARAT TAX ON LUXURY COMMODITIES BILL, 1995.**

#### **GUJARAT BILL NO. 27 OF 1995.**

#### *A BILL*

*to provide for levy of tax on luxury commodities in the State of Gujarat.*

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Gujarat Tax on Luxury Commodities Act, 1995.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires, —

(1) "appointed day" means the date on which the remaining provisions of this Act shall come into force under sub-section (3) of section 1;

(2) "Commissioner" means a person appointed to be the Commissioner of Luxury Commodities Tax under section 6;

(3) "importer" means a person who brings any of the luxury commodities into the State either on his own account or on account of others or to whom any of the luxury commodities are despatched from any place outside the State;

(4) "luxury commodities" means the commodities of luxury specified in the Schedule;

(5) "manufacturer" means a person who manufactures in the State any of the luxury commodities;

(6) "prescribed" means prescribed by rules made under this Act;

(7) "registered stockist" means a stockist registered under section 7;

(8) "rules" means rules made under this Act;

(9) "Schedule" means the Schedule appended to this Act;

(10) "stock" means stock of any of the luxury commodities;

(11) "stockist" means an importer or a manufacturer who, in the course of his business, possesses or controls a stock;

(12) "the State" means the State of Gujarat;

(13) "tax" means the tax on luxury commodities levied under this Act;

(14) "Tribunal" means the Gujarat Sales Tax Tribunal constituted under section 28 of the Gujarat Sales Tax Act, 1969, and discharging the functions of the Tribunal assigned to it by or under this Act; Guj. 1 of 1970.

(15) "value of stock" means—

(i) in relation to a stockist who is a manufacturer, the value of a stock of luxury commodities manufactured by him derived by aggregating the amount determined by ex-factory price of such commodities prevailing at the time of their receipt or entry in his stock and the amounts of excise duty and of transport and insurance charges, if any, paid or payable by him,

(ii) in relation to a stockist who is an importer, the value of stock of luxury commodities imported by him derived by aggregating the amount determined by the price mentioned in consignor's bill, invoice or consignment note or such other document in respect of such import, and the amounts of central sales tax and other taxes and of transport and insurance charges, if any, paid or payable by him in respect of such import;

(16) "year" means—

(i) in relation to any stockist who maintains regular books of accounts, the year by reference to which the accounts are maintained by him, and

(ii) in relation to any other stockist, a financial year :

Provided that a registered stockist shall not be entitled to vary the year by reference to which he maintains the books of accounts, except with the consent of the Commissioner and upon such conditions as the Commissioner may determine.

Incidence of tax.

3. (1) Every stockist who during the year commencing on the first day of the year within which the appointed day falls, has from time to time in his possession or control the stock, the aggregate value of which has exceeded or exceeds Rs. 50,000 shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act in respect of the stock received by him on or after the appointed day :

Provided that where the aggregate value of stock in his possession or control first exceeds Rs. 50,000 after the appointed day, he shall not be liable to pay tax in respect of the stocks

received by him upto the time when the aggregate value of stock in which the appointed day falls, first exceeds Rs. 50,000.

(2) Every stockist who during any year being an year subsequent to the year mentioned in sub-section (1) has from time to time in his possession or control the stock, the aggregate value of which first exceeds Rs. 50,000 shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act with effect on and from the first day of the year :

Provided that the stockist shall not be liable to pay tax in respect of stock received by him, during the period commencing on the first day of any such year upto the time when the aggregate value of stock as computed from the said first day, first exceeds Rs. 50,000.

(3) Every stockist who has become liable to pay tax under this Act shall continue to be so liable until his registration is duly cancelled, and upon such cancellation his liability to pay tax other than the tax already levied or leviable shall until the aggregate value of stock in his possession or control again first exceeds Rs. 50,000, cease :

Provided that where the stockist becomes liable to pay tax again in the same year in which he has ceased to be liable as aforesaid, then, in respect of such receipts as take place during the period commencing on the date of the cessation of liability to pay tax upto the time when the aggregate value of stock in his possession or control first exceeds Rs. 50,000, no tax shall be payable.

*Explanation* :— For the purposes of this section and section 5, a stockist who is a manufacturer shall be deemed to have received the stock of any of the luxury commodities manufactured by him upon the entry of such manufacture made in his books of accounts.

Tax payable by stockist. 4. Subject to the provisions of this Act, and any rules made thereunder, there shall be paid by every stockist, who is liable to pay tax under this Act, the tax leviable under the provisions of this Act.

Levy of tax on the stock of commodities of luxury. 5. There shall be levied on the stock of any of the luxury commodities received by a stockist during a year, a tax at the rate of five per cent. of the aggregate value of such stock.

Authorities for implementation of the Act. 6. (1) For carrying out the purposes of this Act, the State Government may appoint an officer to be the Commissioner of Luxury Commodities Tax for the whole of the State of Gujarat who shall have and exercise all the powers and perform all the duties conferred or imposed on the Commissioner by or under this Act.

(2) To assist the Commissioner in execution of the functions under this Act, the State Government may appoint—

(a) one or more officers to be the Additional Commissioners of Luxury Commodities Tax, as the State Government may think necessary;

(b) such number of Deputy Commissioners of Luxury Commodities Tax, Assistant Commissioners of Luxury Commodities Tax and Luxury Commodities Tax Officers and other officers and persons (with such designations), as the State Government may think necessary.

(3) An officer appointed under clause (a) or (b) of sub-section (2) shall, within the limits of such area as the State Government may, by notification in the *Official Gazette*, specify, to be within his jurisdiction, exercise such powers and perform such duties of the Commissioner by or under the Act, as may be conferred or imposed upon him, in the case of the officer appointed under clause (a) of sub-section (2), by the State Government and in the case of the officer appointed under clause (b) of sub-section (2), by the Commissioner.

(4) The superintendence and control for the proper execution of the provisions of this Act and the rules made thereunder relating to the levy and collection of the tax shall vest in the Commissioner.

(5) The Tribunal constituted under section 28 of the Gujarat Sales Tax Act, 1969, shall be Guj. 1 of the Tribunal for the purposes of hearing appeals and revision applications and discharging other 1970. functions of the Tribunal under this Act, and accordingly the provisions of that Act relating to the Tribunal including section 28, and the regulations (subject to such amendments as may be made therein in their application to the Tribunal for the purposes of this Act) made thereunder, shall apply to or in relation to such Tribunal for the purposes of this Act :

Provided that the Tribunal may with the previous sanction of the State Government, make separate regulations for the purposes of regulating its procedure and the disposal of its business, under this Act and the regulations so made shall be published in the *Official Gazette*.

#### Registration.

7. (1) No stockist shall while being liable to pay tax under section 3 hold any stock in the State unless he possesses a valid certificate of registration :

Provided that the provisions of this section shall not be deemed to have been contravened, if the stockist having applied for such registration within the prescribed period, holds stock.

(2) Every stockist required by sub-section (1) to possess a certificate of registration shall apply to such authority (hereinafter referred to as "the prescribed authority"), in such form, with in such period and in such manner as may be prescribed.

(3) If the prescribed authority, after making such inquiry as it thinks fit, is satisfied that an application for registration is in order, it shall grant a certificate of registration in such form as may be prescribed.

(4) The prescribed authority may on an application or otherwise amend the certificate of registration from time to time.

(5) Where the liability of a stockist, to whom a certificate of registration is granted under sub-section (3), to pay tax under section 3 has ceased, such certificate may on the application of the stockist be cancelled by the prescribed authority in such manner as may be prescribed.

(6) A certificate of registration granted to a stockist under sub-section (3) may be cancelled by the prescribed authority after due notice to such stockist, if it is satisfied that he has failed to pay tax, penalty or interest payable under this Act :

Provided that the certificate of registration may be restored if the stockist to whom the certificate was granted pays the arrears of tax, penalty and interest.

#### Returns.

8. (1) Every registered stockist shall furnish returns of stocks to such authority, in such manner, for such period and by such date, as may be prescribed.

(2) If the Commissioner has reason to believe—

(a) that the stockist is likely to have possession or control of stock, the aggregate value of which, would exceed Rs. 50,000/-; or

(b) that the stockist has during any year, in his possession or control of stock, the aggregate value of which has exceeded Rs.50,000/-

he may, by notice served in such manner as may be prescribed require such stockist to furnish returns as if he were a registered stockist but no tax shall be payable by such stockist unless he has in his possession or control of stock, the aggregate value of which exceeds Rs.50,000/-.

(3) If any stockist having furnished returns under sub-section (1) or (2) discovers any omission or incorrect statement therein, he may furnish revised returns before the expiry of three months next following the last date prescribed for furnishing the original returns.

Assessment of  
taxes.

9. (1) The amount of tax due from a registered stockist shall be assessed separately for each year during which he is liable to pay the tax.

(2) If the Commissioner is satisfied that the returns furnished are correct and complete, he shall assess the amount of tax due from the stockist on the basis of such returns.

(3) If the Commissioner is not satisfied that the returns furnished are correct and complete, and he thinks it necessary to require the presence of the stockist or the production of further evidence, he shall serve on such stockist in such manner as may be prescribed a notice, requiring him on a date and at a place specified therein, either to attend and produce or cause to be produced all evidence on which such stockist relies in support of his returns, or to produce such evidence as is specified in the notice.

(4) On the date specified in the notice, or as soon as may be thereafter, the Commissioner shall, after considering all the evidence which may be produced, assess the amount of tax due from the stockist.

(5) If a stockist fails to comply with the terms of any notice issued under sub-section (3), the Commissioner shall assess to the best of his judgment the amount of tax due from him.

(6) If a stockist liable to pay tax under this Act fails to furnish returns in respect of any period by prescribed date, the Commissioner shall, after giving the stockist a reasonable opportunity of being heard, assess to the best of his judgment the amount of tax, if any, due from him.

(7) If the Commissioner has reason to believe that a stockist is liable to pay tax in respect of any period, but has failed to apply for registration within the period prescribed therefor, the Commissioner shall, after giving him a reasonable opportunity of being heard, assess to the best of his judgment, the amount of tax, if any, due from the stockist in respect of such period and any period subsequent thereto.

(8) Any assessment made under this section shall be without prejudice to any penalty or prosecution for offence under this Act.

Reassessment  
of stock escap-  
ing assessment.

10. If the Commissioner has reason to believe that any stock liable to tax under this Act has escaped assessment or has been underassessed in respect of any period in any order of assessment under section 9, then the Commissioner may,--

(a) where he has reason to believe that the stockist has concealed stocks received or any material particulars thereto or has knowingly furnished incorrect returns, at any time within eight years, and

(b) in any other case, at any time within five years

of the end of the period to which receipt of stocks relate, serve on the stockist liable to pay tax in respect of such receipts, a notice containing all or any of the requisitions which may be included in a notice in such manner as may be prescribed and assess not later than three years from the date of service of the notice, the amount of tax due from such stockist to the best of his judgment :

Provided that where in respect of such assessment, proceedings are pending in appeal or revision, the appropriate appellate or revisional authority under this Act may on its own motion or on the report of the Commissioner, after giving to the stockist a reasonable opportunity of being heard, pass such order as it deems fit.



Imposition of  
penalty in cer-  
tain cases.

11. Where any stockist liable to pay tax under this Act,—

(a) fails to apply for registration under sub-section (2) of section 7,

(b) fails without sufficient cause or neglects to furnish returns required by sub-section (1) or (2) of section 8,

(c) fails without sufficient cause to comply with the terms of notice served to him under sub-section (3) of section 9,

(d) while furnishing a return under sub-section (1) of section 8 fails without sufficient cause or neglects to pay into a Government treasury the whole amount of tax due from him according to such return, as required by section 12;

(e) fails to maintain proper accounts as required by section 14, or

(f) has concealed particulars of any transaction or deliberately furnished inaccurate particulars of any transaction liable to tax,

the Commissioner may impose upon the stockist by way of penalty, in addition to any tax assessed under section 9, a sum not less than ten thousand rupees and not more than fifty thousand rupees.

Payment of tax.

12. (1) The tax shall be paid in the manner herein provided and at such intervals as may be prescribed.

(2) A registered stockist furnishing returns as required by section 8 shall first pay into the Government treasury, in such manner as may be prescribed, the whole amount of tax due from him according to such return along with the penalty payable by him under section 11.

(3) Where a registered dealer furnishes a revised return in accordance with sub-section (3) of section 8 and such revised return shows that an amount of tax in addition to the tax already paid is payable, he shall first pay into a Government treasury the additional amount of tax.

(4) (a) The amount of tax—

(i) due where returns have been furnished without full payment therefor,

(ii) assessed or reassessed for any period under section 9 or 10 less any sum already paid by the stockist in respect of such period,

(b) the amount of penalty, if any, levied under section 11, or

(c) the amount of interest, if any, under section 13

shall be paid by the stockist liable therefor into a Government treasury by such date as may be specified in a notice issued by the Commissioner for this purpose, being a date not earlier than fifteen days from the date of service.

(5) Any tax, penalty or interest which remains unpaid after the date for payment specified in the notice under sub-section (4) shall be recoverable as arrears of land revenue.

Liability of  
stockist to pay  
interest.

13. (1) Where a stockist does not pay the amount of tax within the time prescribed for its payment under sub-section (1) or (2) of section 12, there shall be paid by the stockist for the period commencing on the date of expiry of the aforesaid period and ending on the date of payment of the amount of tax, simple interest at the rate of twenty-four per cent. per annum on the amount of tax not so paid or any less amount thereof remaining unpaid during such period.



(2) Where the amount of tax assessed or reassessed for any period under section 9 or 10, subject to revision, if any, under section 17 exceeds the amount of tax already paid by a stockist for that period, there shall be paid by such stockist for the period commencing from the date of expiry of the time prescribed for payment of tax under sub-section (1) or (2) of section 12 and ending on the date of assessment, reassessment or, as the case may be, revision, simple interest at the rate of twenty-four per cent. per annum on the amount of tax not so paid or any less amount thereof remaining unpaid during such period.

Accounts.

14. (1) Every stockist liable to pay tax under this Act and every other stockist who is required so to do by the Commissioner by notice served on him in such manner, as may be prescribed, shall maintain regularly in the course of his business correct and complete books of accounts.

(2) If the Commissioner considers that the accounts kept are not sufficiently clear or intelligible to enable him to determine whether or not a stockist is liable to pay tax during any period or are so kept as not to enable proper scrutiny of returns furnished, the Commissioner may require such stockist by notice in writing to keep such accounts in such form or manner as in his opinion is necessary for the purpose of proper assessment.

Production and inspection of books of accounts and documents and search of premises.

15. (1) The Commissioner may, subject to such conditions as may be prescribed, require any stockist to produce before him any books of accounts or documents, or to furnish any information relating to stock or any other information relating to his business, as may be necessary for the purposes of this Act.

(2) All books of accounts, registers and documents relating to stock and all stock kept at any place of business of the stockist, shall at all reasonable times be open to inspection by the Commissioner, and the Commissioner may take or cause to be taken such copies or extracts therefrom or may place or cause to be placed such marks of identifications thereon, as appear necessary for the purposes of this Act.

(3) The Commissioner may, for the purposes of this Act, impound and retain in his custody for such period as he considers necessary any books of accounts, or other documents produced before him in any proceeding under this Act.

(4) If the Commissioner has reason to believe that any stockist has evaded or is attempting to evade the payment of any tax due from him, he may, for the reasons to be recorded in writing, seize such books of accounts, registers or documents of the stockist as may be necessary and shall grant a receipt for the same, and shall retain the same for so long as may be necessary, in connection with any proceeding under this Act or for a prosecution.

(5) For the purposes of sub-section (2) or sub-section (4), the Commissioner may enter and search any place of business of any stockist, or any other place where the Commissioner has reason to believe that the stockist keeps or is for the time being keeping any accounts, registers or documents of his business or stock and make a note or an inventory of any articles or things found in the course of any search which in his opinion will be useful for, or relevant to any proceeding under this Act, or for a prosecution.

(6) The provisions of the Code of Criminal Procedure, 1973 relating to searches shall apply, 2 of 1974. so far as may be, to a search made under sub-section (5).

Appeal.

16. (1) Any stockist aggrieved by the order of the prescribed authority cancelling his certificate of registration under sub-section (6) of section 7, or by an order of assessment or reassessment made under section 9 or 10 or by an order imposing penalty under section 11 may, within three months from the date of receipt of the order make appeal to—

(a) the Assistant Commissioner, if the order is made by Luxury Commodities Tax Officer,

(b) the Commissioner, if the order is made by an Assistant Commissioner,  
 (c) the Tribunal, if the order is made by Deputy Commissioner or Additional Commissioner or Commissioner.

(2) In the case of an order passed in appeal by an Assistant Commissioner, a second appeal shall lie to the Tribunal.

(3) (a) Subject to provisions of clause (b), no appeal shall be entertained unless it is filed within sixty days from the date of communication of the order appealed against.

(b) In computing the period specified in clause (a), the provisions of sections 4, 5 and 12 of the Limitation Act, 1963 shall, so far as may be, apply. 36 of 1963.

(4) On receipt of an appeal under sub-section (1) or second appeal under sub-section (2), the appellate authority may, subject to such rules of procedure as may be prescribed, pass such order on appeal or, as the case may be, second appeal as it deems just and proper.

Revision.

17. (1) Subject to any rules which may be made in this behalf—

(a) the Commissioner on his own motion within three years or on an application made to him within one year from the date of any order passed by any officer subordinate to him, may call for and examine the record of any such order and pass such order thereon as he thinks just and proper within twelve months from the date of service of notice of revision,

(b) the Tribunal, on application made to it against an order of the Commissioner (not being an order passed under sub-section (2) of section 16 in second appeal or under clause (a) in revision on an application) within four months from the date of communication of the order, may call for and examine the record of any such order and pass such order thereon as it thinks just and proper.

(2) Where an appeal lies under section 16 and no appeal has been filed, no proceeding in revision under this section shall be entertained upon an application.

(3) No order shall be passed under this section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.

(4) Where the Commissioner or the Tribunal rejects any application for revision under this section, the Commissioner or, as the case may be, the Tribunal shall record the reasons for such rejection.

Court fee on appeal and application for revision. 18. Notwithstanding anything contained in the Bombay Court-fees Act, 1959, an appeal preferred under section 16 and an application for revision under section 17 shall bear a court fee stamp of such value as may be prescribed. XXX-VI of 1959.

Refund.

19. (1) The Commissioner shall refund to a stockist the amount of tax, penalty and interest if any, paid by him in excess of the amount due from him.

(2) The refund may be either by cash payment or at the option of the stockist by deduction of such excess from the amount of tax, penalty or interest due in respect of any other period :

Provided that the Commissioner shall first apply such excess towards recovery of any amount due in respect of which notice under sub-section (4) of section 12 has been issued and shall then refund the balance, if any.

Remission of tax or interest.

20. Subject to such conditions as it may impose, the State Government may, if it is necessary so to do—

(i) in public interest, or

(ii) for the purpose of granting relief in case of double taxation, or

(iii) for the purpose of redressing an inequitable situation.

remit by an order either generally or specially, the whole or any part of the tax or interest or of both payable by any stockist or class of stockists in respect of any period.

Offences.

## 21. (1) Whoever—

(a) carries on business as a stockist without being registered in contravention of section 7, or

(b) knowingly furnishes a false return, or

(c) fails when directed so to do under section 14 to keep any accounts or records in accordance with the direction, or

(d) fails to comply with any requirement made of him under section 15, or

(e) knowingly produces false accounts, registers or documents or knowingly furnishes false information, or

(f) obstructs any officer making an inspection or search under section 15, or

(g) aids or abets any person in commission of any acts specified in clauses (a) to (f),

shall on conviction, be punished with simple imprisonment which may extend to six months or with fine not exceeding twenty thousand rupees or with both and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.

(2) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed by the Commissioner under the provisions of this Act.

Offences by companies.

22. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) "company" means a body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

Cognizance of offences.

23. No court shall take cognizance of an offence under section 21 except with the previous sanction of the Commissioner.

Compounding of offences. 24. (1) The Commissioner may, either before or after the institution of proceedings, for any offence punishable under section 21 accept from any person charged with such offence by way of composition of the offence a sum not exceeding—

(i) two thousand rupees, where the offence charged is under clause (d) or (g) of sub-section (1) of section 21,

(ii) double the amount of tax which would have been payable on the receipts of stock to which the offence relates, where the offence charged is under any of the other clauses of sub-section (1) of section 21.

(2) On payment of such sum as may be determined by the Commissioner under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence.

Powers of Tribunal and Commissioner. 25. (1) In discharging their functions under this Act, the Tribunal and the Commissioner shall have all the powers of a civil court for the purposes of—

(a) proof of facts by affidavit;

(b) summoning and enforcing the attendance of any person and examining him on oath or affirmation;

(c) compelling the production of documents; and

(d) issuing commissions for the examination of witnesses.

(2) In the case of any affidavit to be made for the purpose of this Act, any officer appointed by the Tribunal or the Commissioner, may administer the oath to the deponent.

Bar of jurisdiction of civil courts. 26. (1) (a) No civil court shall have jurisdiction to deal with or decide any question which the Tribunal, the Commissioner or any officer appointed to assist him is empowered to deal with or decide by or under this Act and no injunction shall be granted by any civil court in respect of any action taken or to be taken in pursuance of any power by or under this Act;

(b) no assessment made and no order passed under this Act or the rules made there under by the Tribunal, the Commissioner or any officer appointed to assist him shall be called in question in any civil court.

Power to transfer proceedings. 27. The Commissioner may, after due notice to the parties, by order in writing transfer any proceedings or class of proceedings under any provisions of this Act from himself to any other officer and he may likewise transfer any such proceedings (including a proceeding already transferred under this section) from one such officer to another or to himself.

Persons appointed under section 6 to be public servant. 28. The Commissioner and all officers and persons appointed under section 6 to assist the Commissioner shall be deemed to be public servants within the meaning of section 21 of the 48 of Indian Penal Code. 1860.

Indemnity. 29. No suit, prosecution or other legal proceeding shall lie against any servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Power to make rules. 30. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the authority to which, the form in which, the period within which and the manner in which an application for certificate of registration shall be made under sub-section (2) of section 7;

(b) the form in which the certificate of registration shall be granted under sub-section (3) of section 7;

(c) the manner in which a certificate of registration shall be cancelled by the prescribed authority under sub-section (5) of section 7;

(d) the authority to which, the manner in which, the period for which and the date by which, a registered stockist shall furnish the returns of stock under sub-section (1) of section 8;

(e) the manner in which a notice shall be served under sub-section (2) of section 8;

(f) the manner in which a notice shall be served by the Commissioner on a stockist under sub-section (3) of section 9;

(g) the manner in which a notice shall be served on a stockist under section 10;

(h) the intervals at which the tax shall be paid under sub-section (1) of section 12;

(i) the manner in which a registered stockist shall first pay into a Government treasury the whole amount of tax due from him under sub-section (2) of section 12;

(j) the manner in which a notice shall be served by the Commissioner on every other stockist under sub-section (1) of section 14;

(k) the conditions subject to which the Commissioner may require any stockist to produce before him any books of accounts or documents or to furnish any information relating to stock or any other information relating to his business under sub-section (1) of section 15;

(l) the rules of procedure subject to which the appellate authority may pass an order on appeal or second appeal under sub-section (4) of section 16;

(m) the rules subject to which the Commissioner or, as the case may be, the Tribunal may call for and examine the record of an order under sub-section (1) of section 17;

(n) the value at which an appeal and application for revision shall bear a court-fee stamp under section 18;

(o) any other matter which is required to be or may be prescribed under this Act.

(3) In making any rules under this section, the State Government may direct that a breach thereof shall be punishable with fine not exceeding five thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

(4) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication :

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rules to be made under this section.



(5) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(6) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

SCHEDULE

( See clause (4) of section 2 )

1. Cheroots.
2. Cigarettes.
3. Cigars.
4. Smoking mixtures for pipes and cigarettes.



## STATEMENT OF OBJECTS AND REASONS

This Bill seeks to levy luxury tax with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Legislative Assembly on the 21st June, 1995.

It is proposed to levy tax on the stock of luxury commodities received during a year by a stockist i.e. a manufacturer or importer.

The following notes on clauses explain, in brief, the important provisions of the Bill :—

*Clause 3.*—This clause provides for the incidence of tax whereby every stockist who during the year commencing on the first day of the year within which the appointed day falls as from time to time, in his possession or control the stock, the aggregate value of which has exceeded or exceeds Rs. 50,000/-, is made liable to pay tax.

*Clause 4.*—This clause requires every stockist who is liable to pay tax, to pay tax levied under the Act.

*Clause 5.*—This clause provides for levy of tax on stock of luxury commodities received by a stockist during a year at the rate of five percent of the aggregate value of such stock.

*Clause 6.*—This clause provides for authorities for implementation of the Act viz. the Commissioner of luxury commodities tax, Deputy Commissioner of luxury commodities tax, Assistant Commissioner of luxury commodities tax and luxury commodities tax officers and the Tribunal constituted under section 28 of the Gujarat Sales Tax Act, 1969.

*Clause 7.*—This clause provides for registration of stockists who are liable to pay tax under clause 3.

*Clause 8.*—This clause provides for furnishing of returns of stocks received by every registered stockist.

*Clause 9.*—This clause provides for assessment of tax.

*Clause 10.*—This clause provides for re-assessment of stocks escaping assessment.

*Clause 11.*—This clause provides for imposition of penalty on any stockist in certain cases.

*Clause 12.*—This clause provides for payment of tax.

*Clause 13.*—This clause provides for the liability of stockists to pay interest on the amount of tax not paid within the prescribed time.

*Clause 14.*—This clause requires every stockist liable to pay tax under the Act and every other stockist to whom notice is served by the Commissioner, to maintain regularly in the course of his business, correct and complete the books of accounts.

*Clause 15.*—This clause provides for production and inspection of accounts and documents and search of premises.

*Clause 16.*—This clause provides for appeal by any stockist aggrieved by order of cancellation of his certificate of registration or by an order of assessment or re-assessment or by an order imposing penalty, to the authorities mentioned therein.

*Clause 17.*—This clause provides for revision by the Commissioner, of orders passed by the officers subordinate to him and by the Tribunal, of orders passed by the Commissioner.

*Clause 18.*—This clause provides for court fees on appeal and application for revision.

Clause 19.—This clause provides for refund of the amount of tax and penalty paid in excess of the amount due.

Clause 20.—This clause provides for remission of tax or interest in certain circumstances.

Clause 21.—This clause provides for offences.

Clause 23.—This clause provides for cognizance of offences.

Clause 24.—This clause provides for compounding of offences.

Clause 25.—This clause provides for powers of Tribunal and Commissioner similar to those of a civil court for the purpose of proof of facts by affidavits, summoning and enforcing the attendance, compelling the production of document and issuing commissions for examination of witnesses.

Clause 26.—This clause provides for bar of jurisdiction of civil courts.

Clause 30.—Sub-clause (1) of this clause empowers the State Government to make the rules generally for carrying out the purposes of the Act and particularly for matters specified in sub-clause (2).

This Bill seeks to achieve the aforesaid objects.

SURESH MEHTA

## FINANCIAL MEMORANDUM

Clause 6 of the Bill empowers the State Government to appoint various Taxing and Registering Authorities. At present, it is proposed to designate the Commissioner of Sales Tax concurrently as the Commissioner of Luxury Commodities Tax and to appoint other officers of the Sales Tax Department to assist the Commissioner in the execution of his functions under the Act. The collection of tax and administration of the Act would be entrusted to the Sales Tax Department. Therefore, the provisions of the Bill, if enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the State.

SURESH MEHTA

## MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers in the following respects :—

*Clause 1.*—Sub-clause (3) of this clause empowers the State Government to appoint by notification in the *Official Gazette* the date on which the remaining provisions of the Act shall come into force.

*Clause 6.*—(a) Sub-clause (3) of this clause empowers the State Government to specify the area of jurisdiction within which the officer appointed under para (a) or para (b) of sub-clause (2) shall exercise the powers and perform duties conferred or imposed on him.

(b) Proviso to sub-clause (5) of this clause empowers the Tribunal to make separate regulations for the purpose of regulating its procedure and the disposal of its business under the Act.

*Clause 7.*—(a) Sub-clause (2) of this clause empowers the State Government to prescribe by rules the authority to which, the period within which and the manner in which every stockist required to possess a certificate of registration, shall apply.

(b) Sub-clause (3) of this clause empowers the State Government to prescribe by rules the form in which a certificate of registration shall be granted.

(c) Sub-clause (5) of this clause empowers the State Government to prescribe by rules the manner in which a certificate of registration shall be cancelled by the prescribed authority.

*Clause 8.*—(a) Sub-clause (1) of this clause empowers the State Government to prescribe by rules the authority to which, the manner in which, the period for which and the day by which every registered stockist shall furnish returns of stocks received.

(b) Sub-clause (2) of this clause empowers the State Government to prescribe by rules the manner in which the Commissioner may serve notice.

*Clause 9.*—Sub-clause (3) of this clause empowers the State Government to prescribe by rules the manner in which the Commissioner shall serve a notice on a stockist.

*Clause 10.*—This clause empowers the State Government to prescribe by rules the manner in which the Commissioner shall serve a notice on the stockist.

*Clause 12.*—(a) Sub-clause (1) of this clause empowers the State Government to prescribe by rules the intervals at which the tax shall be paid.

(b) Sub-clause (2) of this clause empowers the State Government to prescribe by rules the manner in which a registered stockist shall first pay into a Government treasury the whole amount of tax due from him.

*Clause 14.*—Sub-clause (1) of this clause empowers the State Government to prescribe by rules the manner in which a notice shall be served by the Commissioner on every other stockist.

*Clause 15.*—Sub-clause (1) of this clause empowers the State Government to prescribe by rules the conditions subject to which the Commissioner may require any stockist to produce before him any books of accounts or documents or to furnish any information relating to stock or any other information relating to his business.

*Clause 16.*—Sub-clause (4) of this clause empowers the State Government to prescribe the rules of procedure subject to which the appellate authority may pass an order on appeal or second appeal.

*Clause 17.*—Sub-clause (1) of this clause empowers the State Government to prescribe the rules subject to which the Commissioner may call for and examine the record of an order passed by an officer subordinate to him and the Tribunal may call for and examine the record of an order passed by the Commissioner.

*Clause 18.*—This clause empowers the State Government to prescribe by rules the value of court-fee stamp which shall be borne on an appeal or application for revision.

*Clause 20.*—This clause empowers the State Government to remit by general or special order, any tax or interest payable by any stockist or class of stockists in certain circumstances.

*Clause 30.*—Sub-clause (1) of this clause empowers the State Government to make rules for carrying out the purposes of the Act and clause (2) empowers the State Government to make rules for all or any of the matters specified therein.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 24th July, 1995.

SURESH MEHTA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar Dated the 24th July, 1995.